

Tuesday,  
August 19, 2014  
  
Washington, D.C

FRANKLIN CHANDLER DAVIDSON

called for examination by Counsel for the State of Texas, pursuant to Notice of Deposition, in the law offices of Dechert, LLP, located at 1900 K Street, N.W., Suite 1200, when were present on behalf of the respective parties:

## 1 APPEARANCES:

2 On Behalf of the United States of America:

3 ELIZABETH S. WESTFALL, ESQ.

4 U.S. Department of Justice

5 Civil Rights Division

6 950 Pennsylvania Avenue, N.W.

7 Washington, D.C. 20530

8 Tel: (202) 305-4278

9 On Behalf of the Veasey-LULAC Plaintiffs:

10 J. GERALD HEBERT, ESQ.

11 JOSHUA BONE, ESQ.

12 The Campaign Legal Center

13 215 E Street, N.E.

14 Washington, D.C. 20002

15 Tel: (202) 736-2200

16 On Behalf of the State of Texas:

17 S. RONALD KEISTER, ESQ.

18 Texas Office of the Attorney General

19 Tort Litigation Division

20 P.O. Box 12548

21 Austin, Texas 78711

22 Tel: (512) 463-2197

## 23 ALSO PRESENT:

24 PEYTON McCRARY, Historian, U.S. DOJ,

25 Civil Rights Division, Voting Section

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P-R-O-C-E-E-D-I-N-G-S

(9:04 a.m.)

WHEREUPON,

FRANKLIN CHANDLER DAVIDSON

was called for examination by Counsel for the  
State of Texas and, having been first duly sworn,  
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KEISTER:

**Q Would you please state and spell your  
full name for the Court, please?**

**A Franklin, F-R-A-N-K-L-I-N, Chandler,  
C-H-A-N-D-L-E-R, Davidson, D-A-V-I-D-S-O-N.**

**Q And you've been retained to be an  
expert witness in this case, correct?**

**A That's correct.**

**Q And who have you been retained by?**

**A The Department of Justice.**

**Q Okay. Thank you. And you prepared a  
report in this case, and the original report you  
prepared was dated June 27th, 2014?**

**A That's correct.**

**Q All right. And thereafter you  
prepared a corrected report, correct?**

**A That's correct.**

1 Q Okay. And let me show you what I've  
2 marked as Exhibit Number 1 and ask you, sir, just  
3 to look through that. And after you look through  
4 it, tell us what it is.

5 (Whereupon, the above-referred to  
6 document was marked as Davidson  
7 Deposition Exhibit No. 1 for  
8 identification.)

9 A I'm trying to ascertain that this is  
10 the updated version.

11 Q Right. You've got to -- if you look  
12 all the way to the -- about the middle before  
13 your CV, you'll see the dated copy, or the date  
14 when you signed that particular copy.

15 A 9th day of July, yes.

16 Q Okay. So that was a report that you  
17 corrected and signed on July 9th, 2014, correct?

18 A That's correct.

19 Q Okay. And along with the report,  
20 there is a copy of your curriculum vitae?

21 A That's correct.

22 Q Okay. And is your curriculum vitae up  
23 to date as of today?

24 A Yes it is.

25 Q Okay. Now, with respect to the

1 differences between Exhibit Number 1 and the  
2 original report that you prepared in this case,  
3 can you tell us basically what was the  
4 difference?

5 MS. WESTFALL: Objection. Could you  
6 hand the witness his original report, so he can  
7 review that report?

8 MR. KEISTER: I do not, but I can hand  
9 you -- off the record for a moment.

10 (Whereupon, the above-entitled matter went off  
11 the record briefly at 9:07 a.m.)

12 BY MR. KEISTER:

13 Q Dr. Chandler, I'm not going to mark  
14 this as an exhibit, but this is a copy of a  
15 report that's dated June 27th, 2014. We're not  
16 going to spend a whole lot of time on this, but  
17 can you just -- if you can look at that and just  
18 tell us what the difference was between your  
19 original report on June 27th and the corrected  
20 report that you filed, which is Exhibit 1?

21 MS. WESTFALL: I'd like to object.  
22 Are you asking him to review and compare these  
23 two entire reports? Is there a certain paragraph  
24 you want to direct him to and examine him on,  
25 counsel?

1 MR. KEISTER: No. I would like to  
2 know what the difference is between the two  
3 reports.

4 THE WITNESS: Okay. This is going to  
5 take a long time.

6 MS. WESTFALL: Dr. Davidson, take your  
7 time reviewing, as much as you need.

8 MR. KEISTER: And while you're  
9 reviewing, I'll see if I can find what I thought  
10 I had.

11 (Pause)

12 BY MR. KEISTER:

13 Q Dr. Chandler, I've found something  
14 that may help. One second. Let me show you  
15 Exhibit Number 4.

16 (Whereupon, the above-referred to  
17 document was marked as Davidson Deposition  
18 Exhibit No. 4 for identification.)

19 MS. WESTFALL: Counsel, for the  
20 record, I just wanted to direct your attention to  
21 the fact that it's Dr. Davidson, not Dr.  
22 Chandler.

23 MR. KEISTER: I'm sorry. Thank you.  
24 Dr. Davidson, excuse me. If I do that, you feel  
25 free to correct me, okay?

1 THE WITNESS: You're not the first  
2 person to do that.

3 BY MR. KEISTER:

4 Q All right. If you'll look on  
5 Exhibit 4, you'll see that that particular  
6 document states that the corrections concern  
7 paragraph 69 of the report on page 40. Does that  
8 help?

9 A Yes. And now what was the question  
10 again?

11 Q What was the differences between your  
12 original report and the corrected report, which  
13 is Exhibit Number 1?

14 A It concerned the report by the United  
15 States expert, Professor Stephen Ansolabehere,  
16 who was asked to determine the number of Texas  
17 registered voters who lack acceptable SB-14  
18 identification, as well as to identify any racial  
19 disparities in rates of ID possession between  
20 Anglos, African Americans, and Hispanics.

21 And that report that Professor  
22 Ansolabehere had written was changed between the  
23 first version and the second version, and I  
24 wanted to make note of that fact.

25 Q Okay. And as we sit here today, did



1 you note in your report what the change was to  
2 Dr. Ansolabehere's report?

3 A It had to do with a change, I believe,  
4 in the number of Texas registered voters who  
5 lacked an acceptable form of SB-14 ID.

6 Q Okay. And just looking at the two  
7 side by side, can you tell what the differences  
8 were?

9 MS. WESTFALL: Objection. Documents  
10 speak for themselves. Go ahead.

11 THE WITNESS: Do I go ahead?

12 MS. WESTFALL: Go ahead.

13 THE WITNESS: Oh, okay.

14 BY MR. KEISTER:

15 Q From time to time, you may hear one of  
16 us object. But unless we instruct you not to  
17 answer, unless your counsel instructs you --

18 A Oh, okay.

19 Q -- not to answer --

20 A Okay.

21 Q -- feel free to answer.

22 A I think the simplest way to do this  
23 would simply be to read the two into the record.

24 Q Okay. That's fine. I don't want you  
25 to --

1 MS. WESTFALL: May I turn the page to  
2 make sure that we're on the correct --

3 THE WITNESS: This is 69. In the  
4 earlier version I say, one of the United States  
5 experts, Professor Stephen Ansolabehere, was  
6 asked to determine the number of Texas registered  
7 voters who lack acceptable SB-14 identification,  
8 as well as to identify any racial disparities in  
9 rates of ID possession between Anglos, African  
10 Americans, and Hispanics. He found that  
11 approximately 1.2 million Texas registered voters  
12 lack an accepted form of SB-14 ID, and that black  
13 and Hispanic voters were much more likely to lack  
14 ID than Anglo voters.

15 Through database matching and  
16 individual and aggregate level estimates of the  
17 race of those without acceptable ID, he estimated  
18 that five to seven percent of registered Anglos  
19 lacked ID, as compared to 15 percent of  
20 registered blacks and 10 to 11 percent of  
21 registered Hispanics.

22 In other words, black registered  
23 voters are roughly 100 to 200 percent more likely  
24 to lack ID as compared with Anglo voters.  
25 Hispanic registered voters are roughly 50 to 100

1 percent more likely to lack ID as compared with  
2 Anglo voters.

3 Professor Ansolabehere's findings  
4 indicate that registered voters without necessary  
5 photo ID are disproportionately African American  
6 or Hispanic.

7 And the revised version reads, one of  
8 the United States experts, Professor Stephen  
9 Ansolabehere, was asked to determine the number  
10 of Texas registered voters who lack acceptable  
11 SB-14 identification, as well as to identify any  
12 racial disparities in rates of ID possession  
13 between Anglos, African Americans, and Hispanics.  
14 He found that approximately 1.2 million Texas  
15 registered voters lack an acceptable form of SB-  
16 14 ID, and that black and Hispanic voters were  
17 much more likely to lack ID than Anglo voters.

18 Through database matching and  
19 individual and aggregate level estimates of the  
20 race of those without acceptable ID, he estimated  
21 that five to seven percent of registered Anglos  
22 lack IDs, as compared to 13 to 15 percent of  
23 registered blacks and nine to 11 percent of  
24 registered Hispanics.

25 In other words, black registered

1 voters are roughly 100 to 150 percent more likely  
2 to lack ID as compared with Anglo voters.  
3 Hispanic registered voters are roughly 50 to 100  
4 percent more likely to lack ID as compared with  
5 Anglo voters.

6 Dr. Ansolabehere's findings indicate  
7 that registered voters without necessary photo ID  
8 are disproportionately African American or  
9 Hispanic.

10 BY MR. KEISTER:

11 Q Okay. Now, I heard 1.2 million in  
12 both of those, and I heard some percentages that  
13 didn't sound a whole lot different to me, but I  
14 don't have it in front of me. Can you look at  
15 the percentages on your original --

16 A Yes.

17 Q -- as compared to your corrected  
18 report, Exhibit 1, and just tell us where the  
19 differences in the numbers lie?

20 A Okay.

21 MS. WESTFALL: Objection. Document  
22 speaks for itself. Asked and answered.

23 THE WITNESS: He estimated that five  
24 to seven percent of registered Anglos lack ID, as  
25 compared to 15 percent of registered blacks and

1 10 to 11 percent of registered Hispanics. And  
2 that changes --

3 BY MR. KEISTER:

4 Q If you want to just tell me the ones  
5 that change, that will be fine.

6 A Okay. Instead of 15 percent of  
7 registered blacks, it's 13 to 15 percent of  
8 registered blacks. And instead of 10 to 11  
9 percent registered Hispanics, it's nine to 11  
10 percent of registered Hispanics.

11 Q Okay. Does that appear to be the main  
12 difference?

13 A It seems to be.

14 Q Okay. So from what I'm hearing in  
15 your corrected report, Exhibit 1, it sounds as if  
16 Dr. Ansolabehere reduced the percentages slightly  
17 with respect to the African Americans and the  
18 Hispanics, correct?

19 A I think that's all.

20 Q Okay. Did you have any conversations  
21 with Professor Ansolabehere as to why he revised  
22 his report in that regard?

23 A No, sir.

24 Q Okay. Do you have any basis for  
25 knowing why he revised his report?

1           A           It's my understanding that the  
2 information that he was given by the State of  
3 Texas was not fully accurate the first time and  
4 he needed to get more accurate data.

5           Q           Okay. And you believe that's correct  
6 with respect to the change that you reflect in  
7 Exhibit Number 1?

8           A           I have no reason to doubt it.

9           Q           Okay. All right. If you'll hand me  
10 back my copy of your original, so we don't get  
11 things messed up, because I don't intend to use  
12 this.

13          A           Okay.

14          Q           Okay. Sir, let me show you what I've  
15 marked as Exhibit Number 2, and ask you to take a  
16 look at Exhibit Number 2 and just tell us what  
17 that is, please.

18                   (Whereupon, the above-referred to  
19 document was marked as Davidson Deposition  
20 Exhibit No. 2 for identification.)

21           MS. WESTFALL: Counsel, are you going  
22 to be examining Dr. Davidson on these other  
23 exhibits, or can we put them aside? So we  
24 don't --

25           MR. KEISTER: I think we can put --

1 let's put them aside.

2 MS. WESTFALL: -- get them all messed  
3 up.

4 THE WITNESS: This is the supplemental  
5 declaration of Dr. Chandler Davidson.

6 BY MR. KEISTER:

7 Q Okay. And when did you prepare the  
8 supplemental declaration?

9 A It was in the early part of August  
10 2014.

11 Q Okay. And I believe the -- according  
12 to my copy, you signed Exhibit Number 2 on  
13 August 15th, 2014?

14 A That's correct.

15 Q Okay. Why did you prepare Exhibit  
16 Number 2?

17 A There were various changes in facts  
18 that came to my attention.

19 Q Okay. And if you turn to page 2, the  
20 first full paragraph, if you look at the last  
21 sentence of the first full paragraph it sets out  
22 -- well, tell us what that sets out.

23 MS. WESTFALL: Counsel, what page are  
24 you on?

25 MR. KEISTER: Page 2.

1 THE WITNESS: Would you repeat the  
2 question?

3 BY MR. KEISTER:

4 Q Page 2, the first paragraph, I said  
5 full paragraph, but actually I guess it's not. If  
6 you look on page 2, your first paragraph, you'll  
7 see there at the last sentence.

8 A The last sentence of the first  
9 paragraph.

10 Q First paragraph on that page.

11 A And you want me to read that?

12 Q Well, just tell us -- just tell us,  
13 number one, what is that -- what is that  
14 sentence?

15 MS. WESTFALL: Objection. Vague.

16 THE WITNESS: It tells where the  
17 paragraphs are where minor errors, including  
18 typographical errors, have been corrected.

19 BY MR. KEISTER:

20 Q Okay. And does that sentence reflect  
21 throughout your report the areas where you  
22 believe you have made corrections in Exhibit  
23 Number 2?

24 A Yes.

25 Q Okay. Now, that's not referring only



1 to typographical errors, though, is it? That's  
2 referring to all of the corrections you made.

3 A That's correct.

4 Q All right. Now, with respect to the  
5 substantive portions of the change, what was the  
6 major factual issues that caused you to correct  
7 this report, or led you to correct this report?

8 A I'm not going to be able to answer  
9 that without looking --

10 Q Okay.

11 A -- at these paragraphs.

12 Q Okay.

13 A That may take a little time.

14 Q Well, perhaps if you would look back  
15 on page 1 and just review your first paragraph on  
16 page 1. Perhaps that will help.

17 A Well, as I said, the Ansolabehere  
18 information, and then I wanted to, as I say,  
19 supplement the evidence in my report,  
20 incorporating information obtained by the United  
21 States, and then to correct these typographical  
22 errors. But I'm trying to remember precisely  
23 what those were --

24 Q Okay.

25 A -- and I'm having difficulty.

1           Q       Okay. And we're going to go through  
2 your report in some detail, so we'll get there.  
3 But let me just ask you just generally, what was  
4 the information from Professor Ansolabehere that  
5 led you to decide you wanted to revise your  
6 report or supplement your report?

7           A       Well, it wasn't so much the  
8 information as the fact that he had just updated  
9 it, and I felt the need to mention the fact that  
10 he had updated it and changed slightly the  
11 information therein.

12          Q       Okay. Did you have any conversations  
13 with Professor Ansolabehere concerning the  
14 changes he made to his report?

15          A       No, sir.

16          Q       Okay. Have you obtained any  
17 information concerning the changes Professor  
18 Ansolabehere made to his report other than just  
19 when reviewing the report?

20                 MS. WESTFALL: Objection. Confusing  
21 question.

22                 THE WITNESS: I may have discussed  
23 this with somebody in the Justice Department, but  
24 I'm trying to remember who that would be.

25                 MS. WESTFALL: And I'm going to

1 counsel you not to discuss any of your  
2 discussions with counsel during this deposition.

3 **BY MR. KEISTER:**

4 **Q When approximately was that**  
5 **discussion?**

6 A I believe it was sometime in early  
7 August.

8 **Q Okay. And do you recall the nature of**  
9 **that conversation?**

10 MS. WESTFALL: I'm going to, again,  
11 counsel you not to discuss the details of any  
12 discussions you had with the Justice Department.  
13 You may describe generally when you had that  
14 discussion and the general subject matter of that  
15 discussion.

16 THE WITNESS: Well, it was, as I said,  
17 in early August. And the general nature of it  
18 concerned the slight changes that Dr.  
19 Ansolabehere made as a result of having gotten a  
20 different data set from the state.

21 **BY MR. KEISTER:**

22 **Q Okay. Had you reviewed Professor**  
23 **Ansolabehere's -- that's a hard one, I'm sorry.**

24 A I'm with you on that, sir.

25 MS. WESTFALL: Ansolabehere.

1 MR. KEISTER: Ansolabehere.

2 MS. WESTFALL: Let's go with that.

3 BY MR. KEISTER:

4 Q Okay. Had you reviewed Professor  
5 Ansolabehere's corrected report or corrections  
6 prior to discussing -- prior to your discussing  
7 with the Department of Justice that led you to  
8 correct your -- or supplement your report?

9 A No, I don't believe so.

10 Q Okay. With respect to Exhibit  
11 Number 2, your supplemental declaration in this  
12 case, does it contain all of your findings,  
13 opinions, and conclusions that you formulated in  
14 this case?

15 A Yes.

16 Q Does it contain all of your findings,  
17 opinions, and conclusions that you intend to  
18 testify to to the Court?

19 A Yes.

20 Q Okay. While we're not too far away  
21 from trial in this case, do you have any  
22 intentions to formulate any new findings,  
23 opinions, or conclusions prior to trial?

24 A No, sir.

25 Q Do you have any intentions to do any

1 additional work on this case with respect to new  
2 findings or opinions or conclusions prior to this  
3 case going to trial?

4 MS. WESTFALL: Objection. Calls for  
5 speculation.

6 THE WITNESS: No, sir.

7 BY MR. KEISTER:

8 Q Okay. And as we sit here today,  
9 obviously, if someone asks you to do something  
10 else, you might do it, but as we sit here today,  
11 you have no intentions of doing additional work  
12 to develop opinions, conclusions, or findings in  
13 the case.

14 A That's correct.

15 Q Okay. Let me show you, sir, what I've  
16 marked as Exhibit Number 3 and ask you to take a  
17 look at that, please. And I'm going to represent  
18 to you, sir, that this is the amended notice of  
19 deposition, along with a duces tecum in this  
20 case. Have you seen that document before?

21 (Whereupon, the above-referred to  
22 document was marked as Davidson Deposition  
23 Exhibit No. 3 for identification.)

24 A I'm pretty sure that I was given this.

25 Q Okay. All right.

1 A I'm going --

2 Q It appears just simply to be the  
3 notice letting you know that today is the day and  
4 this is the place to be, right?

5 A Yes.

6 Q All right. If you would look on  
7 page 6 of this notice, you'll see a document  
8 request.

9 A Yes.

10 Q Which requested you bring certain  
11 documents to the deposition today.

12 A Yes.

13 Q Have you brought any documents today  
14 to the deposition pursuant to this request?

15 MS. WESTFALL: Counsel, I would like  
16 to advise you that we have produced voluminous  
17 documents in response to this request, as you  
18 know.

19 THE WITNESS: Yes. Well --

20 BY MR. KEISTER:

21 Q Well, the question simply is, have you  
22 brought any documents to the deposition?

23 A No. No, I have not brought any today.

24 Q All right. Have you provided  
25 documents pursuant to this request to your

1 **counsel?**

2 A Yes.

3 Q Okay. And without going through each  
4 of these -- each of these items one by one, are  
5 there any documents that you have that would be  
6 responsive to any one of these requests, one,  
7 two, three, four, or five, that you have not  
8 produced to your counsel?

9 A Billing records would be the records  
10 that -- with regard to the Justice Department --

11 Q Right. Your work on this case, any  
12 bills you sent, updates, that type of thing.

13 A Now, repeat the question once more,  
14 please.

15 Q Okay. Do you have, in your  
16 possession, either here or back at home, any  
17 documents that would be responsive to the request  
18 on page number 6 that you have not provided to  
19 your counsel --

20 A No.

21 Q -- for presentation today?

22 A No.

23 Q Okay. Thank you. Can you tell us  
24 where you were born?

25 A I was born on a cattle ranch between

1 Alpine and Fort Davis, Texas.

2 Q Okay. And what was your birth date?

3 A May 13th, 1936.

4 Q Okay. Do you have a copy of your  
5 birth certificate?

6 A Not with me.

7 Q But have you seen a copy of your birth  
8 certificate?

9 A Yes, I have.

10 Q Okay. And if you needed a copy of  
11 your birth certificate for some reason today, if  
12 you wanted to get a passport or something like  
13 that, would you have access to your birth  
14 certificate?

15 A Yes, sir.

16 Q Okay. Did you grow up out there in  
17 the same area where you were born?

18 A I spent only the first five years of  
19 my life there.

20 Q Okay. And then where did you go?

21 A I moved to a little town in southern  
22 New Mexico, Lawrenceburg, New Mexico.

23 Q Okay. And how long did you live in  
24 Lawrenceburg?

25 A Until I was a sophomore in high



1 school.

2 Q Okay. So you went to your -- to grade  
3 school and two years of high school in  
4 Lawrenceburg?

5 A That's correct.

6 Q Okay. And then where did you go?

7 A Ysleta, Texas.

8 Q East Letta?

9 A Y-S-L-E-T-A.

10 Q Good. Thank you.

11 A Ysleta.

12 Q That's helpful for those of us not  
13 from Texas, and those of us who are.

14 Okay. And what took you to Ysleta?

15 A My father, who was a U.S. Border  
16 Patrolman, was transferred from Lawrenceburg to  
17 El Paso, and we lived in the suburb of Ysleta and  
18 I went to Ysleta High School there.

19 Q Okay. So Ysleta is close to El Paso?

20 A Yes.

21 Q Is it a suburb of El Paso?

22 A Yes.

23 Q Okay. And so you graduated high  
24 school in Ysleta?

25 A Yes, sir.

1           Q       Okay. What year did you graduate high  
2 school?

3           A       1954.

4           Q       Okay. And your father was a Border  
5 Patrol Agent?

6           A       Yes, sir.

7           Q       Okay. How long was he with the Border  
8 Patrol?

9           A       From approximately 1942 into the  
10 1970s.

11          Q       Okay. And did he spend all of his  
12 career in the New Mexico/Texas region?

13          A       Yes.

14                   MS. WESTFALL: Objection. Relevance.

15                   BY MR. KEISTER:

16          Q       You can answer.

17          A       Yes.

18          Q       Okay. And after you moved to Ysleta,  
19 did he spend the rest of his career in El Paso?

20          A       No.

21          Q       Okay. What other parts of the state  
22 did he spend his career?

23          A       I think he --

24                   MS. WESTFALL: Objection. Objection.

25 Relevance to this line of questions about

1 Professor Davidson's father's career. It seems a  
2 little far afield.

3 THE WITNESS: Fort Hancock, Texas.

4 BY MR. KEISTER:

5 Q Okay. And where is Fort Hancock  
6 located with respect to El Paso?

7 A It's I think 50 to 100 miles east of  
8 El Paso.

9 Q Okay. So it's not directly on the Rio  
10 Grande?

11 A No.

12 Q Okay. Okay. So you graduated from  
13 Ysleta High School, did you say in 1954?

14 A Yes, sir.

15 Q Okay. And did you go into the  
16 military?

17 A Not directly, no.

18 Q Okay. What did you do after you  
19 graduated from high school?

20 A I enrolled at the University of Texas  
21 in Austin.

22 Q Okay. And what year was that?

23 A That would have been 1954.

24 Q Okay. And did you graduate from UT-  
25 Austin?

1 A Yes.

2 Q What year did you graduate?

3 A Either 1961 or 1962.

4 Q Okay. So did you take a break in  
5 those years to do something else?

6 A Yes.

7 Q Okay. What was the break?

8 A I joined the Navy and spent two years  
9 in the Pacific Fleet, a landing ship dock.

10 Q Okay.

11 A Amphibious ship, an LSD.

12 Q Okay.

13 A Landing ship dock.

14 Q What years was that?

15 A That must have been from 1955 to 1957.

16 Q Okay. So you're a veteran, correct?

17 A That's correct.

18 Q Do you have a Veterans Administration

19 ID?

20 A Not on me.

21 Q But you do have one?

22 A Almost certainly I do.

23 Q Okay. Do you have occasion to use it,  
24 or is it something you received in the past and  
25 you know that you have?

1 A I don't have occasion to use it.

2 Q Okay. Do you know whether or not your  
3 photograph is on that ID?

4 A No.

5 Q No, it's not or --

6 A No, I don't know.

7 Q Okay.

8 A I'm sorry.

9 Q No, that's fine. All right.  
10 Appreciate it. All right. So you were in the  
11 Navy for two years?

12 A Yes, sir.

13 Q And then you came back to UT?

14 A Well, I needed some money, so I went  
15 to work in the Texas and Louisiana oilfields.

16 Q Okay. And how long did you do that?

17 A Well, I spent one year to get enough  
18 money to get started back to UT, and then I took  
19 a little bit of time off from UT again to go back  
20 into the oilfields I think the following summer.

21 Q Okay. All right. But ultimately you  
22 returned to UT.

23 A That's correct.

24 Q And you received your degree in '61?

25 A '61 or '62.

1           **Q       Okay. And what was your degree in?**

2           A       It was in philosophy.

3           **Q       Okay. All right. And what did you do**  
4 **after you graduated from the University of Texas**  
5 **with a degree in philosophy?**

6           A       I had a Fulbright scholarship and  
7 spent a year at the University of Poitiers in  
8 France.

9           **Q       Okay. And what was your studies in**  
10 **France?**

11          A       The philosophy of aesthetics.

12          **Q       Okay. Sounds like an interesting**  
13 **topic.**

14                   (Laughter)

15                   So you spent a year, and what did you  
16 do?

17          A       Well, I went to classes and learned a  
18 great deal about French culture from a wonderful  
19 professor by the name of Monsieur Leaud. By that  
20 time, I was married and my wife and I had some  
21 good times on several trips to Paris, made many  
22 good friends in Poitiers.

23          **Q       Okay.**

24          A       Before I came back.

25          **Q       All right. When did you return to the**

1 **U.S.?**

2 A I think it was -- I think it was 1962.

3 **Q Okay. And upon your return to the**  
4 **U.S., what did you do?**

5 A I worked briefly as an Associate  
6 Editor of the Texas Observer Magazine in Austin.

7 **Q Okay. And at that point, I assume the**  
8 **Observer was a fairly new magazine?**

9 A Indeed, it was.

10 **Q All right. Okay. And how long did**  
11 **you work for the Observer?**

12 A Just a few months.

13 **Q Okay. And from there, what did you**  
14 **do?**

15 A I sold real estate in south Austin.

16 **Q Okay. And did there come a time when**  
17 **you returned to school?**

18 A That's correct.

19 **Q All right. Let's talk about when you**  
20 **returned to school. Where did you -- what was**  
21 **your next educational experience?**

22 A I went to Princeton University,  
23 pursuing a graduate degree in philosophy.

24 **Q Okay. And what year did you go to**  
25 **Princeton?**

1 A 1963.

2 Q Okay. And how long did you attend  
3 Princeton?

4 A Well, I was there three years. I had  
5 not yet obtained my Ph.D., but I was -- I was  
6 there for three years.

7 Q Okay. And did you obtain a master's  
8 while you were at Princeton?

9 A I guess I did, yes.

10 Q Okay.

11 A As part of the stepping stone towards  
12 a Ph.D.

13 Q Okay. Some people would consider that  
14 a high stepping stone, but I guess once you get  
15 there. What was your master's in?

16 A Well, it was in philosophy.

17 Q Okay. All right. But you did not  
18 obtain your Ph.D. while you were at Princeton?

19 A Not while I was living there, no.

20 Q Okay. After you left Princeton, where  
21 did you go?

22 A I went to Rice University.

23 Q Okay. And was that for employment?

24 A Yes.

25 Q Okay. And what year did you go to



1 **Rice?**

2 A 1966.

3 **Q Okay. And how were you employed by**  
4 **Rice University?**

5 A I was -- I can't remember the exact  
6 title, but it was the bottom stepping stone,  
7 actually below an Assistant Professor. I didn't  
8 have my Ph.D. degree yet, and my being able to  
9 stay at Rice was contingent upon getting that  
10 Ph.D. degree within a couple of years.

11 **Q Okay. Would that have been Associate**  
12 **Professor?**

13 A Oh, no, no. That's up the scale. I  
14 was below an Assistant Professor and living on  
15 \$1,375 a year. I'm sorry, \$3,900. I'm sorry.  
16 Wife and two kids.

17 MS. WESTFALL: Counsel, you're not to  
18 volunteer any more information about your salary  
19 on the record.

20 (Laughter)

21 MR. KEISTER: Well, that's a long time  
22 ago, so --

23 **BY MR. KEISTER:**

24 **Q So you came in teaching classes at**  
25 **Rice?**

1 A That's correct.

2 Q Okay. And what type of classes were  
3 you teaching?

4 A Sociology classes. While I was at  
5 Princeton, I switched majors from philosophy to  
6 sociology.

7 Q Okay.

8 A And ended up getting my Ph.D.  
9 eventually in sociology.

10 Q Okay. But your master's was in  
11 philosophy.

12 A I'm not sure.

13 Q Okay. Okay. All right. So while you  
14 were at Rice, you finished up your work on the  
15 Ph.D. and obtained a Ph.D. in sociology.

16 A That's correct.

17 Q Okay. And just tell us briefly, or I  
18 guess you've got to give us a fundamental sketch  
19 of how your career developed at Rice over the  
20 years.

21 A Well, it's fairly simple. I just  
22 taught, I published research, I sat on a number  
23 of committees and did all of the mundane sorts of  
24 things a professor is expected to do, and was  
25 promoted from Assistant Professor to Associate

1 Professor to Full Professor, and continued  
2 teaching and doing research until I retired in  
3 2003.

4 **Q Okay. And during your time period**  
5 **before you retired, what type of classes did you**  
6 **continue or did you teach to the students?**

7 A I taught -- and by the way, I should  
8 add that for a number of years I was also  
9 connected to the Political Science Department as  
10 well, and I taught some political science  
11 courses. My specialty was political sociology.  
12 And so I continued to teach throughout my career  
13 political sociology, which is in many respects  
14 very similar to political science.

15 I taught a number of other courses,  
16 taught courses on poverty, taught courses on race  
17 relations. I had some courses that I taught on  
18 Texas politics and the culture of Texas.

19 **Q Did you teach any history courses?**

20 A Not per se, although history certainly  
21 was melded into both my research and my classroom  
22 lectures.

23 **Q Okay. With respect to your classes on**  
24 **Texas politics, did the history of Texas politics**  
25 **play a part in those?**

1           A       Absolutely.

2           Q       Okay. And over the course of the  
3 years, have you come an expert in the history of  
4 Texas politics? Or do you consider yourself an  
5 expert in the history of Texas politics?

6           A       I know a good deal about Texas  
7 politics. I knew more about it when I was a  
8 little bit younger. As I say, I have read books  
9 on the subject and have assigned reading  
10 materials in the history of Texas politics, have  
11 colleagues on the Rice faculty whose specialty is  
12 Texas politics or southern politics, and have sat  
13 on dissertation committees in the History  
14 Department where Texas politics and Texas  
15 history, more generally, have been addressed.

16          Q       Okay. And just basically why I'm  
17 asking, Doctor, is in your report -- and we'll  
18 get into it in detail later on, but in your  
19 report you outline some aspects of Texas history  
20 with respect to the discriminatory racial  
21 history. Did you rely upon your expertise with  
22 respect to knowledge of Texas history in your  
23 drafting of that part of the report?

24          A       Yes, I think so.

25          Q       Okay. And you feel qualified to

1 express the opinions on Texas history that you  
2 have expressed in your report?

3 A Yes.

4 Q Okay. Now, you mentioned that you  
5 were married at the time you went to France, I  
6 believe?

7 A That's correct.

8 Q Okay. And are you still married  
9 today?

10 A I'm still married, but not to the same  
11 woman.

12 Q Okay. And was there a divorce at some  
13 point in the past?

14 A Yes.

15 Q Okay. When did that occur?

16 A I think in the 1970s.

17 Q Okay. And what was your former wife's  
18 name?

19 A Virginia Turner.

20 Q Okay. And so there was a divorce and  
21 then you remarried. When did you remarry?

22 A I want to say in 1980.

23 Q Okay. Who did you marry in 1980?

24 A Sharon Plummer, P-L-U-M-M-E-R.

25 Q Okay. And are you still married to

1 Sharon Plummer?

2 A Yes.

3 Q Okay. Did you have any children from  
4 your first marriage?

5 A Yes.

6 Q Okay. How many children?

7 A Two.

8 Q Okay. And what are their names?

9 A Well, the one who is still living is  
10 named Seth, and the one who died is named Ian.

11 Q Okay. And what about your second  
12 marriage, any children from your second marriage?

13 A No.

14 Q Okay. So you have one son, Seth.

15 Okay. Where does Seth live?

16 A He lives outside of Los Angeles in  
17 Palos Verdes --

18 Q Okay.

19 A -- Estates.

20 Q Okay. How long has he lived out  
21 there?

22 A I want to say about a decade.

23 Q Okay. Do you operate an automobile?

24 Do you drive?

25 A I do drive.

1 Q Okay. Do you have a driver's license?

2 A Yes, I do.

3 Q Is it current?

4 A Yes.

5 Q Okay. How long have you had a  
6 driver's license?

7 A Not my current one, but just a  
8 driver's license?

9 Q A Texas driver's license.

10 A Oh, I think since my early twenties.

11 Q Okay. All right.

12 A At least.

13 Q Okay. And does your wife drive?

14 A Yes.

15 Q Does she have a current driver's  
16 license?

17 A Yes.

18 Q Okay. Do you know how long she has  
19 had her current driver's license?

20 A No.

21 Q Do you have a passport?

22 A Yes.

23 Q Does your wife have a passport?

24 A Yes.

25 Q Do you have a concealed handgun

1 **license?**

2 A No.

3 Q Okay. Does your wife?

4 A No.

5 Q Okay. All right. During the course  
6 of your work on this case, have you interviewed  
7 any witnesses in the case?

8 MS. WESTFALL: Objection. Unclear,  
9 vague.

10 BY MR. KEISTER:

11 Q You can answer.

12 MS. WESTFALL: Calls for a legal  
13 conclusion also.

14 BY MR. KEISTER:

15 Q You can still answer.

16 A I'm virtually certain, no.

17 Q Okay. Have you interviewed any of the  
18 Plaintiffs in this case?

19 A No.

20 Q Okay.

21 MR. KEISTER: I'm sorry?

22 MS. WESTFALL: I was just going to  
23 object. Calls for a legal conclusion. You  
24 haven't identified all the Plaintiffs in this  
25 case.



1 BY MR. KEISTER:

2 Q Okay. But to your knowledge, you  
3 haven't.

4 MS. WESTFALL: Foundation.

5 BY MR. KEISTER:

6 Q Okay. To your knowledge, you haven't  
7 interviewed any of the known Plaintiffs in this  
8 case?

9 A No.

10 Q Okay. Have you interviewed anyone who  
11 has told you that they do not have a photo  
12 identification that would allow them to vote in  
13 the state of Texas?

14 A No.

15 Q Okay. Have you spoken to any friends  
16 or neighbors that have told you that they do not  
17 have a photo identification that would allow them  
18 to vote in the state of Texas?

19 A No.

20 Q Okay. Do you personally know anyone  
21 that does not have a photo identification that  
22 would allow them to vote in the state of Texas?

23 MS. WESTFALL: Objection. Foundation.

24 THE WITNESS: No.

25 BY MR. KEISTER:

1           **Q       Okay. And I don't believe we covered**  
2 **this, but you currently reside in Texas?**

3           A       Yes.

4           **Q       Okay. Where do you reside in Texas?**

5           A       Houston.

6           **Q       Okay. And how long have you resided**  
7 **in Houston?**

8           A       Since 1966.

9           **Q       Okay.**

10          A       But I had been in Houston earlier than  
11 that. When I was working in the oilfields, the  
12 company that I worked for was based in Houston.  
13 And so I spent some time in the late 50s and  
14 early 60s where Houston was my -- my home base,  
15 but I have lived continuously in Houston since  
16 1966 when I was hired by Rice.

17          **Q       Okay. As we sit here today, do you**  
18 **have any personal knowledge of anyone in the city**  
19 **of Houston that does not have a photo ID that**  
20 **would allow them to vote in Texas?**

21               MS. WESTFALL: Objection. Calls for  
22 a legal conclusion.

23               THE WITNESS: No.

24               BY MR. KEISTER:

25           **Q       Okay. During your course of working**

1 on this case, has anyone identified for you the  
2 names of anyone that does not have a photo ID  
3 that would allow them to vote in the state of  
4 Texas?

5 MS. WESTFALL: Objection. Calls for  
6 a legal conclusion.

7 THE WITNESS: No.

8 BY MR. KEISTER:

9 Q As we sit here today, have you ever  
10 seen a list of people that claim not to be able  
11 to vote in Texas because of the lack of a photo  
12 ID?

13 A No.

14 Q Do you belong to any social  
15 organizations or civic organizations in Houston?

16 A Yes.

17 Q Okay. What do you belong to?

18 A The only ones I can think of off the  
19 top of my head are political organizations.

20 Q Okay. And which ones would those be?

21 A A little organization called Braeswood  
22 Place Democrats. It's a Democratic club.

23 Q Okay.

24 A And another Democratic organization  
25 called ROAD Women, River Oaks Area Democrats --

1 Democratic Women. They allow men to belong as  
2 well.

3 Q Okay.

4 A I may belong to a few other  
5 organizations, but those are two that come to  
6 mind.

7 Q Okay. With respect to the two that  
8 you just mentioned, do you attend meetings on an  
9 occasional basis?

10 A Occasionally, yes.

11 Q Okay. During the meetings that you  
12 have attended at those two organizations, have  
13 you learned of anyone who is unable to vote in  
14 Texas because they do not have a photo  
15 identification?

16 A No.

17 Q Okay. Have you heard anyone discuss  
18 at those meetings the fact that there is any  
19 specific people in Houston, or specific persons,  
20 that you are aware of, or members of that  
21 organization are aware of, that do not have a  
22 photo ID that would allow them to vote in a Texas  
23 election?

24 A No, sir.

25 Q Okay. Do you attend a church?

1 A No, sir.

2 Q Okay. So as we sit here today, you  
3 cannot tell me anyone specifically that does not  
4 have a photo ID that would -- sufficient to allow  
5 them to vote in Texas?

6 MS. WESTFALL: Objection. Calls for  
7 a legal conclusion. Objection. Foundation.

8 THE WITNESS: No.

9 BY MR. KEISTER:

10 Q Okay. You've been married twice. Do  
11 you have copies of your marriage certificates?

12 A I've certainly got a copy of my second  
13 marriage. I -- I'm not sure that I have copies  
14 of my first one.

15 Q Okay. What about with respect to the  
16 divorce? I know it has been quite a while back,  
17 but do you still have copies of the final divorce  
18 decree?

19 A I think so.

20 Q Okay. Why did you keep copies of your  
21 final divorce decree?

22 MS. WESTFALL: Objection. Relevance.

23 THE WITNESS: I just tend to keep  
24 official documents that relate to me.

25 BY MR. KEISTER:

1 Q Okay. And what about with respect to  
2 your marriage certificate, why did you keep a  
3 copy of your marriage certificate?

4 A Same reason.

5 Q Just because they're documents that  
6 are important to you?

7 A Yes.

8 Q Okay. And I believe I already asked  
9 you about your birth certificate, correct? If  
10 you had a copy of it?

11 A I think you did.

12 Q Okay.

13 A And I do.

14 Q Okay. Have you ever been employed by  
15 the Texas Secretary of State?

16 A No.

17 Q Have you ever done any consulting work  
18 for the Texas Secretary of State?

19 A No.

20 Q Have you ever been employed by the  
21 Texas Department of Public Safety?

22 A No.

23 Q Have you ever done any consulting work  
24 for the Texas Department of Public Safety?

25 A No.

1 Q Okay. Have you ever been employed by  
2 the Texas legislature?

3 A No.

4 Q Okay. I know you have given some  
5 testimony before the legislature on occasion,  
6 correct?

7 A Yes.

8 Q Have you ever been retained by the  
9 legislature to do some consulting work for the  
10 legislature?

11 A No.

12 Q Okay. Have you ever been employed by  
13 any Texas state agency?

14 A No.

15 Q Have you ever done any consulting work  
16 for any Texas state agency?

17 A No.

18 Q Okay. Have you ever acted as an  
19 election judge in an election?

20 A No.

21 Q Okay. Have you ever participated as  
22 a poll worker of any sort in an election?

23 A No.

24 Q Okay. Do you vote on a regular basis?

25 A Yes.

1 Q Okay. And do you consider yourself a  
2 Democrat?

3 A Yes.

4 Q Okay. And have you considered  
5 yourself a Democrat for the bulk of your life?

6 A Yes.

7 Q Okay. When were you first approached  
8 about participating in this case as an expert  
9 witness?

10 A I believe it was July of 2013.

11 Q Okay. And by whom were you  
12 approached?

13 A I think it was by this lady here.

14 Q Okay. And by this lady here, we're  
15 talking about Ms. Westfall?

16 A Ms. Westfall, yes. Westfall. I'm  
17 sorry.

18 Q And without going into specific  
19 details, what was the nature of the conversation  
20 you had with Ms. Westfall?

21 MS. WESTFALL: And I will counsel you  
22 again not to get into specifics of our  
23 conversation.

24 THE WITNESS: All right. She wanted  
25 to know whether I would be interested in writing



1 a report for the Department of Justice with  
2 regard to SB-14 and events surrounding it.

3 BY MR. KEISTER:

4 Q Okay. And at that point in time, were  
5 you familiar with SB-14, prior to Mr. Westfall  
6 contacting you?

7 A Roughly familiar with it, yes.

8 Q Okay. And how were you familiar with  
9 SB-14?

10 A Having read about it in the  
11 newspapers.

12 Q And prior to Ms. Westfall approaching  
13 you in July of 2013, had you been retained by  
14 anyone else prior to that time to work as a  
15 consultant or an expert with respect to any  
16 aspect of an SB-14?

17 A No.

18 Q Okay. Did you testify before the  
19 legislature concerning SB-14?

20 A No.

21 Q Okay. At some point, did you give  
22 testimony before the legislature on one of the  
23 photo --

24 A Yes.

25 Q -- ID -- which one was that?

1           A       The 2009 bill.

2           Q       Okay. All right. So Ms. Westfall  
3       approached you in July of 2014 -- '13, and did  
4       she give you a written scope of the assignment  
5       she wanted you to prepare?

6           A       Did she send me a written document, is  
7       that what you're asking?

8           Q       Yes.

9           A       I don't believe so.

10          Q       Okay. And what was your understanding  
11       of the scope of the assignment that you were  
12       undertaking?

13          A       As I recollect, I was asked to --

14          Q       Without going into the specifics.

15               MS. WESTFALL: Without going into the  
16       specifics. Do you want to direct him to the  
17       report where he describes his undertaking or --  
18       as to avoid any work product privilege  
19       communications, counsel?

20               MR. KEISTER: Well, I don't intend to  
21       dwell on this a lot.

22               BY MR. KEISTER:

23          Q       But if you can just tell me generally  
24       just what you recall the scope of your assignment  
25       being. And if you need to refer to your report,

1 it's in front of you, you certainly may.

2 A I was asked to write a brief account  
3 of the events leading up to passage of SB-14,  
4 which would include the legislative sessions of  
5 2005, 2007, 2009, and 2011.

6 Q Okay. All right. And any other  
7 assignments or requests in addition to just  
8 writing the history?

9 A I don't think so.

10 Q Okay.

11 A No. The answer is no.

12 Q Were you asked to draw any conclusions  
13 or reach any opinions at that point, or were you  
14 simply asked to write a history?

15 A I was simply asked to write a history.

16 Q Okay. Did there come a point at which  
17 you were requested to express opinions for this  
18 case, in addition to writing a brief history,  
19 which you described?

20 MS. WESTFALL: I would object.  
21 Clearly -- and refer Dr. Davidson to his  
22 supplemental declaration where he sets forth the  
23 scope of what he has been asked to provide in  
24 this case, and not communications with counsel.

25 BY MR. KEISTER:

1 Q And you are certainly welcome to  
2 review or refer to -- if you need to -- to your  
3 report, Doctor. I'm not rushing you, so --

4 A Okay. Repeat the question, please.

5 Q I think my question was, you initially  
6 were retained to review and do a brief history  
7 related to SB-14, correct?

8 A Right.

9 Q All right. Then, my question was, did  
10 there come a time when you were requested to go  
11 deeper and to develop opinions and conclusions  
12 and findings in this case that you are going to  
13 present to the Court?

14 A No.

15 Q Okay. But you have, in fact, in your  
16 report expressed opinions in this case, correct?

17 A Yes.

18 Q Okay. Did you do that on your own, or  
19 at some point did somebody ask you to do it?

20 MS. WESTFALL: And I'm going to  
21 object. The report speaks for itself in that  
22 regard.

23 THE WITNESS: I did it on my own.

24 BY MR. KEISTER:

25 Q Okay. Okay. Now, before accepting

1 Ms. Westfall's assignment in this case, did you  
2 do any research or do any review to try and  
3 determine whether or not this was a project you  
4 were comfortable doing?

5 A Before when? Before she --

6 Q When Ms. Westfall spoke to you, before  
7 you actually accepted --

8 A Oh.

9 Q -- the assignment, did you do any  
10 review or research to determine if this was a  
11 project you were comfortable participating in?

12 A No.

13 Q Okay. How long after Ms. Westfall  
14 contacted you did you accept her request for you  
15 to participate in this litigation?

16 A I can't remember that.

17 Q Okay. Was it a lengthy period of  
18 time?

19 A No.

20 Q Okay. Did you enter into a contract  
21 in this case, a written contract?

22 A I'm pretty sure that I did.

23 Q Okay. Do you know what the terms of  
24 that contract call for?

25 MS. WESTFALL: Objection. Dr.

1 Davidson sets forth his hourly rate in the  
2 report. Speaks for itself.

3 **BY MR. KEISTER:**

4 **Q In terms of the work requested, do you**  
5 **know what the contract calls for?**

6 MS. WESTFALL: And objection. That is  
7 privileged work product. I'm going to instruct  
8 him not to answer as to the scope of the  
9 contract.

10 **BY MR. KEISTER:**

11 **Q Are you going to follow counsel's**  
12 **advice and not answer what you were requested to**  
13 **do?**

14 MS. WESTFALL: Dr. Davidson, in terms  
15 of -- I believe that is -- I believe that is  
16 privileged. Do you have any -- do you want to  
17 set forth your basis for seeking this  
18 information?

19 MR. KEISTER: Well, I'm seeking this  
20 information, so I think I'm entitled to know what  
21 the scope of his assignment was that he received  
22 from this case and to question him on that scope  
23 of the assignment.

24 MS. WESTFALL: I will --

25 MR. KEISTER: But, certainly, if

1 you're going to instruct him not to answer, I  
2 will --

3 MS. WESTFALL: I will allow you to  
4 generally ask him about the general nature of his  
5 assignment, but I would refer you, counsel, to  
6 his report where he sets forth what the  
7 Department of Justice has requested that he do in  
8 this action.

9 MR. KEISTER: And I appreciate that,  
10 but I'm going to ask him some questions about it.

11 BY MR. KEISTER:

12 Q Generally speaking, do you recall what  
13 the contract called for with respect to the scope  
14 of your assignment in this case?

15 A At the most general level, write a  
16 report on the history leading up to passage of  
17 SB-14.

18 Q And at no point did it request that  
19 you formulate opinions in this case?

20 A No. I don't recall anyone saying, you  
21 must come up with this conclusion.

22 Q Okay. All right. Have you  
23 communicated with anyone else at the Department  
24 of Justice with respect to this case, other than  
25 Ms. Westfall?

1 A Yes.

2 Q Okay. Who else have you communicated  
3 with?

4 A Professor McCrary.

5 Q Okay. And who is Professor McCrary?

6 A He is a historian in the Voting  
7 Section of the Department of Justice.

8 Q Okay. Is he an attorney?

9 A No.

10 Q Okay. All right. And without going  
11 into specifics, what was the nature of your  
12 conversations with Professor McCrary?

13 A We talked about a number of things,  
14 the overall scope of the project, where some of  
15 the data might be obtained. He read a draft of  
16 the report and gave me some comments on his  
17 thoughts on the matter.

18 Q Okay. How many drafts of the report  
19 do you think you shared with Professor McCrary?

20 A Several. Virtually all of the drafts.

21 Q Okay. When do you think you prepared  
22 your first draft of the report in this case?

23 A Well, using the term draft rather  
24 loosely, I guess some time in early -- fairly  
25 early in the current year, 2014.



1           Q       Okay. And did you submit that draft  
2 to anyone else other than Professor McCrary?

3           A       I'm pretty sure that it was submitted  
4 to Ms. Westfall and other attorneys perhaps in  
5 the Voting Section or at least they saw it.

6           Q       Okay. Was Professor McCrary your  
7 primary contact with respect to working on the  
8 report?

9           A       I think so, yes.

10          Q       Okay. And how would the process work?  
11 Would you draft a report and email it to  
12 Professor McCrary?

13          A       Yes.

14          Q       And then would he email you back  
15 comments or suggestions, that type of thing?

16          A       I think that's the way it worked, yes.

17          Q       Okay. And did you -- as the report  
18 progressed, did you accept Professor McCrary's  
19 suggestions and comments, incorporate those into  
20 your report?

21          A       Some of them.

22          Q       Okay. And so you think from early  
23 January 2014 up until you presented your first  
24 report in this case, which was dated I believe  
25 January -- June 27th, 2014, during that time

1 period, how many drafts of the report do you  
2 think you and Dr. McCrary shared?

3 MS. WESTFALL: An objection. I think  
4 this is vague because of the use of the word  
5 draft, which is a little unclear and may be being  
6 used in different ways by the witness and  
7 counsel.

8 BY MR. KEISTER:

9 Q Okay. Well, before we -- let's just  
10 clear that up before we answer that question.  
11 When you talk about a draft of the report that  
12 you shared with Dr. McCrary, what are you  
13 referring to?

14 A I'm referring to several pages of a  
15 version of the document as I envisaged it  
16 ultimately being.

17 Q Okay.

18 A And many of these drafts were very  
19 incomplete.

20 Q Okay.

21 A But I guess had a sufficient number of  
22 words in them to constitute a draft rather than  
23 simply a paragraph here and there.

24 Q Okay. So I think we're on the same  
25 page.

1 A Okay.

2 Q Between the time you began drafting  
3 the report in January of 2014 and June of 2014,  
4 how many times do you think you shared drafts  
5 back and forth with Professor McCrary?

6 A Oh, at least a dozen.

7 Q Okay. All right. So Professor  
8 McCrary had substantial input into your final  
9 product?

10 MS. WESTFALL: Objection. Assumes  
11 facts not in evidence. Foundation.

12 BY MR. KEISTER:

13 Q Would you agree that Professor McCrary  
14 had substantial input into the final report that  
15 you produced in this case?

16 MS. WESTFALL: Objection.  
17 Mischaracterizes the witness' testimony.

18 THE WITNESS: He gave me several  
19 useful suggestions, most of which I made use of  
20 in the next draft that I wrote.

21 BY MR. KEISTER:

22 Q Okay. And then you produced your  
23 report on June 27th. Between June 27th and the  
24 preparation of your supplemental report, which is  
25 Exhibit Number 2 in this case, did you continue

1 to confer with Professor McCrary concerning the  
2 changes of your report from June 27th up until  
3 the supplemental report?

4 A Yes, sir.

5 Q Okay. And did Professor McCrary  
6 suggest to you any of the changes that needed to  
7 be made in the report?

8 A Yes.

9 Q Okay. Do you recall what those  
10 changes were?

11 A No.

12 Q Okay. But those changes are -- some  
13 of those changes are reflected in your  
14 supplemental report?

15 A Yes.

16 MR. KEISTER: Okay. All right. We've  
17 been going about an hour and 15. Why don't we  
18 take a break?

19 (Whereupon, the above-entitled matter went  
20 off the record at 10:16 a.m. and resumed at 10:33  
21 a.m.)

22 MR. KEISTER: Back on the record.

23 THE WITNESS: I would like to make a  
24 correction with regard to a question you asked me  
25 about I believe the first person in the Justice

1 Department who contacted me.

2 MR. KEISTER: Yes, sir.

3 THE WITNESS: And it was not Ms.

4 Westfall, but it was Meredith Bell-Platts.

5 MR. KEISTER: Okay.

6 THE WITNESS: And she asked me if I  
7 would be interested, and I eventually told her  
8 yes, and she has had medical problems and is not  
9 involved.

10 BY MR. KEISTER:

11 Q Okay. When approximately do you  
12 recall Ms. Platts contacting you?

13 A It was the time I gave --

14 Q July of --

15 A -- for Ms. Westfall, yes.

16 Q July of 2013.

17 A Yes.

18 Q And then, at some point after that,  
19 then you began communicating with Ms. Westfall as  
20 opposed --

21 A Yes.

22 Q -- to Ms. Platts?

23 A Yes.

24 Q Okay. All right. Now, you are being  
25 compensated in this case, correct?

1 A That's correct.

2 Q And how much are you being compensated  
3 per hour?

4 A \$350.

5 Q Okay. And as of today, do you know  
6 how many hours you have put into this case?

7 A No, I haven't tallied it up.

8 Q Okay. And do you have an  
9 approximation?

10 A This may sound strange, but I don't.

11 Q Okay.

12 A I have not submitted a bill in some  
13 time.

14 Q Okay. Have you submitted some bills  
15 as this case has progressed?

16 A Yes.

17 Q Okay. And how much have you actually  
18 been compensated up until today?

19 A I believe it's in the neighborhood of  
20 \$130,000.

21 Q Okay. And when do you think your last  
22 bill was presented to the DOJ?

23 A End of December of 2013.

24 Q Okay. And do you have an estimate as  
25 to how much your bill will be -- I'm not going to

1 say at the completion of this case, because none  
2 of us know when it's going to conclude, but as of  
3 through trial, do you have an estimate as to how  
4 much you think your final bill will be?

5 MS. WESTFALL: Objection. Calls for  
6 speculation.

7 THE WITNESS: I really don't know.

8 BY MR. KEISTER:

9 Q Okay. As of today, how much would  
10 your bill be?

11 A I don't -- I don't know. I haven't --  
12 I've got at home written down how many hours I  
13 have spent in -- I have put in, but I haven't  
14 tallied those hours up, and I haven't submitted  
15 them to the Department.

16 Q Okay. So as of last December 2013,  
17 you said it was \$130,000?

18 A Roughly that, yes.

19 Q Okay. And you began work in July, so  
20 for approximately five months.

21 A Yes.

22 Q So do you think you put in as much  
23 work after -- in the new year, in 2014, as you  
24 put in prior in 2013?

25 A Probably so.

1           **Q**       **Okay. So do you expect the billing,**  
2 **then, to be roughly the same as 2013, up until**  
3 **today?**

4           **A**       Probably somewhere in that  
5 neighborhood, but it's just speculation.

6           **Q**       **Okay. Okay. And I'm just trying to**  
7 **get a rough idea. I understand that none of us**  
8 **can tell how long we will be continuing on this**  
9 **activity. When did you actually begin working on**  
10 **the case in terms of starting to do research,**  
11 **that type of thing?**

12                   MS. WESTFALL: Objection. Asked and  
13 answered.

14                   THE WITNESS: Virtually as soon as it  
15 was determined that I was going to be an expert  
16 in this case. That would have been back in July  
17 or early August.

18                   **BY MR. KEISTER:**

19           **Q**       **Okay. Tell me what you did with**  
20 **respect to your research. How did you conduct**  
21 **the research that you ultimately used to**  
22 **formulate your opinions in this case?**

23           **A**       I began with newspaper accounts of the  
24 various sessions, and I asked the Justice  
25 Department for information that might be of use



1 and they responded with other kinds of data.

2 Q So you began researching newspaper  
3 articles?

4 A Yes.

5 Q On the internet, I assume?

6 A Yes.

7 Q Okay. And then you requested  
8 information from the Department of Justice,  
9 correct?

10 A Yes.

11 Q And what type of information did the  
12 Department of Justice provide you? And,  
13 certainly, at any time if you need to refer to  
14 your report, Doctor, you're welcome to. This  
15 isn't necessarily a memory test.

16 A They gave me depositions. They gave  
17 me such things as a copy of Ansolabehere's  
18 research. Information such as House debate,  
19 March 21st, 2011, various things of that sort.  
20 Some legal cases, citations primarily, that I  
21 followed up on. I think I mentioned depositions.

22 Q You did. Were these materials  
23 provided to you all at once, or was this  
24 something that was provided over a period of  
25 time?

1           A           It was over a period of time, yes.

2           Q           Okay. And were these items that you  
3 requested, or were these items that simply the  
4 Department of Justice sent to you?

5           A           I think some of them I requested and  
6 some of them they just sent to me.

7           Q           Okay. Now, in your report you cite a  
8 considerable number of published books and  
9 articles and treaties, and that type of thing.  
10 With respect to those type of references, did you  
11 have knowledge of those references before you  
12 took on this case? Or did you learn everything  
13 from scratch that is --

14          A           No, I had knowledge of a good bit of  
15 the material that I cite here, especially the  
16 academic journals and books, things of that sort.

17          Q           Okay. The material or the information  
18 that is contained in your report, particularly  
19 with respect to the historical aspects and the  
20 other issues that aren't directly related to SB-  
21 14, have you utilized that information in  
22 previous reports in other cases?

23                   MS. WESTFALL: Objection. Vague.

24                   MR. KEISTER: Well, I'm talking  
25 about --

1 MS. WESTFALL: Lack of foundation.

2 BY MR. KEISTER:

3 Q I'm talking about your section on the  
4 history of Texas with respect to discrimination.  
5 I'm talking about the history with respect to  
6 Voting Rights Act and those type of issues,  
7 because I understand you said that you had not  
8 previously worked on SB-14, correct?

9 A Yes, that's correct.

10 Q Okay. So what I'm asking is the stuff  
11 that's not specifically on SB-14. Have you  
12 utilized that information in other reports and  
13 other cases?

14 A I think that I have used some of it,  
15 yes.

16 Q Okay. And we'll get into the other  
17 cases here in a minute, so I don't want to get  
18 too far off on a tangent. But you mentioned that  
19 one of the first things you started doing when  
20 you started researching was looking at newspaper  
21 articles, correct?

22 A Yes, sir.

23 Q How do you go about validating the  
24 accuracy of information that you review in things  
25 such as newspaper articles, magazine articles,

1 internet articles, those type of items? How do  
2 you validate the information in those articles  
3 are accurate?

4 A Well, one typically takes into account  
5 the type of newspaper or magazine that one is  
6 reading. Some have a fairly high degree of what  
7 I would call reputation in terms of your being  
8 able to accept the work that is done, and then  
9 there are certain journalists as well who are  
10 well known to be accurate and fair in their  
11 reportage of the news.

12 And so I do the same thing as  
13 virtually all scholars who cite the printed page  
14 or I guess today the media, and so forth, you go  
15 to some lengths to ensure that you are getting a  
16 balanced account from people who are respected in  
17 their field as journalists.

18 Q Okay. Throughout your work on this  
19 case, did you do anything to go behind the  
20 printed word? Because I know you cited the many  
21 articles in your paper. Did you do anything to  
22 go behind the printed word and to check on the  
23 sources or check on the accuracy of the  
24 information that is in the articles that you  
25 refer to in --

1 A No.

2 Q Okay. So other than you being  
3 comfortable that the sources that you've cited to  
4 are reputable, you are really simply taking for  
5 face value what is on the printed page.

6 MS. WESTFALL: Objection.  
7 Mischaracterizes the witness' testimony.

8 BY MR. KEISTER:

9 Q Is that correct?

10 A To the extent possible, I try to  
11 supplement data in newspaper articles with other  
12 sources, but that's not always possible. And  
13 what I'm doing here is essentially what virtually  
14 all scholars do is make some kind of judgments  
15 based upon their scholarship and training as to  
16 which kinds of articles, which kinds of  
17 newspapers, which kinds of magazines are more  
18 reputable and trustworthy than others.

19 Q Okay. But my question is really more  
20 basic than that, not with respect to your  
21 process, but just the fact is that with respect  
22 to the newspaper articles you cite, you've taken  
23 them on face value as to what is on the printed  
24 word, correct?

25 MS. WESTFALL: Objection. Is there a

1 particular article that you want to point the  
2 witness to? Are you talking about all of the  
3 articles? In which case I would ask the witness,  
4 Dr. Davidson, to review the footnotes, so we can  
5 talk about specifics instead of a general overall  
6 assessment.

7 MR. KEISTER: You can answer my  
8 question.

9 MS. WESTFALL: If you can.

10 THE WITNESS: Repeat the question.

11 BY MR. KEISTER:

12 Q Okay. My question was simply this.  
13 You've already testified that you have not talked  
14 -- or maybe you have -- on the newspaper articles  
15 you've cited in your paper, have you gone back  
16 and spoken to any of the writers about the --

17 A No.

18 Q Let me get this out.

19 A Oh, I'm sorry.

20 Q That's okay. I'm doing it, too, so --  
21 but he's going to get mad at us. Have you gone  
22 back and spoken to any of the writers of the  
23 articles to talk to them about the accuracy of  
24 what they put in their articles?

25 A No, sir.

1           **Q       Okay. And have you gone beneath**  
2 **what's on the printed page and tried to interview**  
3 **any of the people or sources that are quoted in**  
4 **any of those newspaper articles?**

5           **A       No.**

6           **Q       Okay. And other than your opinion**  
7 **that the articles are from reputable sources and**  
8 **reputable writers, have you done anything else to**  
9 **confirm the accuracy of what's in those articles,**  
10 **or are you simply relying upon what's printed on**  
11 **the face of the article as being correct?**

12                   MS. WESTFALL: Objection. Vague,  
13 calls for speculation, not clear what article the  
14 question is directed to.

15                   **BY MR. KEISTER:**

16           **Q       You can answer.**

17           **A       Well, to the extent possible -- and**  
18 **this is just a general statement -- I have tried**  
19 **to keep an eye out for information in other**  
20 **sources, whether they be depositions or what have**  
21 **you, that might contradict what I read in journal**  
22 **articles.**

23           **Q       Okay. But other than --**

24           **A       Other newspaper articles.**

25           **Q       But other than checking what some one**

1 printed page in the newspaper articles you've  
2 cited -- other than checking them against another  
3 printed page from another article, you haven't  
4 gone beyond that until you confirm the accuracy  
5 of those articles, correct?

6 MS. WESTFALL: Objection.

7 Mischaracterizes the witness' testimony.

8 THE WITNESS: Yes. I think -- I mean,  
9 I -- not yes, but in answer to your question, I  
10 have tried, where possible, to -- where I have  
11 had, for example, access to, say, the Senate  
12 Journal or things like that, official documents  
13 of one sort or another, Texas Legislative  
14 Reference Library, or so forth, I have tried to  
15 measure what I have read in the newspapers  
16 against those kinds of official documents. But I  
17 can't give you specific examples of what those  
18 are.

19 BY MR. KEISTER:

20 Q Okay. Do you consider the Texas  
21 Legislative Reference Library a credible source?

22 A Yes.

23 Q Okay. Okay. All right. Just to wrap  
24 this up, other than checking the references in  
25 the articles, or the statements in the articles,



1 against what you may have read in other  
2 documents, you have done nothing else to confirm  
3 the accuracy of what is in those statements and  
4 those articles, correct?

5 MS. WESTFALL: Objection. Vague.

6 THE WITNESS: Yes.

7 BY MR. KEISTER:

8 Q Okay. Thank you. And I'm only  
9 smiling because we've completed it.

10 MS. WESTFALL: Turning the page.

11 (Laughter.)

12 BY MR. KEISTER:

13 Q All right. Did you conduct any  
14 interviews during your work on this case of any  
15 legislators?

16 A No.

17 Q Okay. And that would be the  
18 legislators that were in support of SB-14 as well  
19 as legislators that opposed SB-14.

20 A None whatsoever.

21 Q Okay. Did you conduct any interviews  
22 of any government officials with respect to your  
23 work in this case?

24 A Absolutely not.

25 Q Okay. Did you perform any type of

1 original surveys, polling, things of that nature  
2 in this case?

3 A No, sir.

4 Q Okay. Did you conduct any type of  
5 original research in this case, other than your  
6 search of the internet for newspaper articles and  
7 treaties and that type of thing?

8 MS. WESTFALL: Objection. Not clear  
9 what original research is referred to.

10 THE WITNESS: Well, I have gone  
11 through, as I say, some of the official  
12 documents, and so forth. But I -- I have not  
13 done original research of the sort that I guess a  
14 scholar would interpret as original research of  
15 having gone into the field and observed or, as I  
16 said, conducted an opinion poll or a poll trying  
17 to get information about the extent to which  
18 people don't have the necessary photo IDs or what  
19 have you.

20 BY MR. KEISTER:

21 Q Okay. So the extent of your research  
22 and work in this case has been your research with  
23 respect to the internet and finding articles and  
24 treaties and publications that relate -- that you  
25 thought related to the issues in this case, and

1 then reviewing the information that the  
2 Department of Justice has given you in this case?

3 MS. WESTFALL: Objection.  
4 Mischaracterizes the witness' testimony.

5 BY MR. KEISTER:

6 Q You may answer.

7 A Could you repeat the question?

8 Q Yes, let me try again. So if I'm  
9 understanding you correctly, your work in this  
10 case has been, number one, conducting internet  
11 searches with respect to SB-14 and looking for  
12 newspaper articles, magazine articles, written  
13 publications, and that type of thing, correct?  
14 That's number one, correct?

15 A Well, that's part of it, yes.

16 Q Okay. Is there anything else you've  
17 done on the internet looking for articles other  
18 than what I just said? I'm breaking the question  
19 down a little bit here.

20 A Yes.

21 Q Okay.

22 A I guess that's correct.

23 Q Okay. And then, if I understood you  
24 correctly, in addition to the internet searches,  
25 you have been provided information by the

1 Department of Justice, correct?

2 A Yes.

3 Q And you've reviewed that information  
4 and utilized that information along with the  
5 information you obtained from the internet in  
6 order to come to your opinions in this case,  
7 correct?

8 MS. WESTFALL: Objection.

9 Mischaracterizes the witness' testimony. Is that  
10 the full list? I don't understand the question.

11 MR. KEISTER: Well, he does.

12 BY MR. KEISTER:

13 Q You can answer the question. Do you  
14 want me to ask it again?

15 A I need you to ask it again.

16 Q And that's fine. I don't mind.  
17 Believe me, any time you need me to clarify, just  
18 ask.

19 A Okay.

20 Q Because I'm -- I do get ramblly. All  
21 right. You testified that you began your  
22 research in this case by conducting an internet  
23 search, correct?

24 A Yes.

25 Q And from that internet search, you

1 obtained various newspaper articles, magazine  
2 articles, things of that nature, correct?

3 A Yes.

4 Q Okay. And in addition to that, you've  
5 been provided documents by the Department of  
6 Justice, correct?

7 A That's correct.

8 Q And you've reviewed the documents the  
9 Department of Justice provided you, correct?

10 A That's correct.

11 Q And the information that you've  
12 gleaned from the Department of Justice documents  
13 you've utilized in your report, correct?

14 A Yes.

15 Q As well as the information you  
16 obtained in your internet search, correct?

17 A Yes.

18 Q All right. Now, is there anything  
19 else that you have reviewed, researched or done,  
20 other than what we just discussed, in order to  
21 assist you to reach your opinions in this case?

22 MS. WESTFALL: I'm going to object to  
23 the use of the term DOJ materials as vague,  
24 undefined.

25 THE WITNESS: I looked at a good many

1 depositions.

2 BY MR. KEISTER:

3 Q Were those provided to you by the  
4 Department of Justice?

5 A Yes.

6 Q Okay.

7 A And, as I said, the House research  
8 organization.

9 Q Okay.

10 A Senate Journal.

11 Q Were those provided to you by the  
12 Department of Justice?

13 A I think some of them may have been,  
14 but others weren't.

15 Q Okay. How did you obtain the ones  
16 that weren't?

17 A I can't give you an answer to that  
18 question.

19 Q Possibly from the internet?

20 A That's entirely possible, yes. I  
21 think that primarily covers it.

22 Q Okay. All right. Before you prepared  
23 your original report in this case on June 27th,  
24 did you consult with any of the other expert  
25 witnesses that had been retained by the

1 **Plaintiffs and Plaintiff-Intervenors in this case**  
2 **before you prepared your report?**

3 A No.

4 Q Okay. Did you review any reports from  
5 the other Plaintiff expert witnesses and  
6 Plaintiff-Intervenor expert witnesses prior to  
7 preparing your report in this case?

8 MS. WESTFALL: Objection. Foundation.

9 THE WITNESS: I'm sorry. Could you  
10 repeat that question?

11 BY MR. KEISTER:

12 Q Sure. Prior to preparing your report,  
13 the original copy on June 27th --

14 A No, wait. Just to interrupt, I didn't  
15 prepare a report on June 27th. That's when I  
16 began my research.

17 Q I believe your -- your report you  
18 submitted in this case originally was on  
19 June 27th, 2014, correct?

20 A Oh. Oh, 2014. I'm sorry. I'm sorry.  
21 That's the --

22 Q We kind of jumped years here. So  
23 before preparing your original report on  
24 June 27th, 2014, in this case, had you reviewed  
25 any reports prepared by the other expert

1 witnesses in this case?

2 MS. WESTFALL: Objection. Foundation.

3 THE WITNESS: I think I had.

4 BY MR. KEISTER:

5 Q Okay. Do you recall which ones you  
6 had reviewed?

7 A I think Vernon Burton, another one  
8 whose name I can't think of right off the bat.  
9 He teaches at American University, a political  
10 scientist. His name will come to me, but I can't  
11 think of it right now.

12 Q Okay. Are those the only two you  
13 recall having reviewed prior to preparing your  
14 report?

15 A Right off the top of my head, but  
16 there may be others.

17 Q Okay. All right. Did you consult  
18 with any of the other attorneys in this case,  
19 other than the Department of Justice attorneys,  
20 prior to preparing your report in this case?

21 A No.

22 Q Okay. Other than Professor McCrary  
23 and the attorneys at the Department of Justice,  
24 did anyone else review your report before you  
25 submitted it in this case?



1 A No.

2 Q Okay. Other than Dr. McCrary with the  
3 Department of Justice, did you consult with any  
4 other professionals outside of the Department of  
5 Justice, or within the Department of Justice,  
6 concerning the issues in your report?

7 A No.

8 MR. KEISTER: Okay. I hate to do  
9 this, but I'm going to invoke my rule and call a  
10 break.

11 MS. WESTFALL: Oh, good, a break.

12 (Whereupon, the above-entitled matter  
13 went off the record at 11:00 a.m. and resumed at  
14 11:06 a.m.)

15 THE WITNESS: One correction I wanted  
16 to make --

17 MR. KEISTER: Yes, sir.

18 THE WITNESS: -- is that, in addition  
19 to newspaper articles and the other things that I  
20 mentioned, were academic books and journals that  
21 I relied on.

22 BY MR. KEISTER:

23 Q Okay. Thank you.

24 A I included in my footnotes.

25 Q Okay. Thank you. Okay. Got it.

1 All right. Doctor, in your report you  
2 address a considerable amount of Texas history,  
3 correct?

4 A Yes, sir.

5 Q And you consider yourself to have  
6 sufficient expertise to set forth the historical  
7 aspects of your report, correct?

8 A Yes, sir.

9 Q Okay. You also mentioned earlier that  
10 you consider the Texas Legislative Reference  
11 Library to be a credible source?

12 A Yes, sir.

13 (Whereupon, the document was  
14 marked as Davidson Exhibit  
15 No. 5 for identification.)

16 BY MR. KEISTER:

17 Q Okay. I'm going to show you, Doctor,  
18 what I have marked as Exhibit No. 5. And I'll  
19 represent to you that this is a document that I  
20 took off the internet from the Legislative  
21 Reference Library of Texas that sets out a list  
22 of the Governors of Texas, correct? Does that  
23 appear to be correct?

24 A What page are we on here? Oh, page 2?  
25 Yes.

1 Q Yes, sir. Yes, sir, page 2.

2 A Uh-hum, okay.

3 Q We start from recent; Governor Perry  
4 is, of course, the current Governor. And then,  
5 you will see that it goes back in time --

6 A Yes.

7 Q -- all the way back to J. Pinckney  
8 Henderson, a Democrat, in 1846, correct?

9 A Yes.

10 Q Okay. And looking up the list from  
11 the second page upward, we'll see that the first  
12 four Governors of Texas were Democrat, correct?

13 A Well, yes, beginning with Pinckney  
14 Henderson. Is that --

15 Q Correct, right. And then, going up.  
16 And I had to put my glasses on, too. So, it's a  
17 little small print.

18 A Okay.

19 Q So, we had four Democrat Governors up  
20 until November the 23rd, 1853, or, actually,  
21 December 21st, 1853. And then, we had a  
22 Republican Unionist who was Governor in 1867,  
23 correct?

24 A Yes.

25 MS. WESTFALL: And I want to object.

1 The document speaks for itself. I have a  
2 standing objection to the use of this document.

3 MR. KEISTER: Okay.

4 BY MR. KEISTER:

5 Q And then, if you look at from Hardin  
6 Runnels, who is a Democrat, he left office in  
7 1859, correct?

8 And then, you go up the list to Edmund  
9 J. Davis in 1870 --

10 A Yes.

11 Q Edmund J. Davis was a Republican,  
12 correct?

13 A That's correct.

14 Q Okay. But, other than the Republican  
15 Unionist that we saw earlier, Edmund J. Davis was  
16 the only Republican Governor up to that point,  
17 correct?

18 A That's correct.

19 Q And Edmund J. Davis was a Republican  
20 Governor during the Reconstruction Period,  
21 correct?

22 A That's correct.

23 Q And you tell the Court briefly what  
24 we're talking about when we talk about the  
25 Reconstruction Period in Texas?

1 MS. WESTFALL: Objection. Calls for  
2 a narrative response.

3 BY MR. KEISTER:

4 Q You may answer.

5 A That was the period after the Civil  
6 War when some changes were made in the  
7 relationship, among other things, between Blacks  
8 and Whites and the ability of Black citizens to  
9 vote, that sort of thing.

10 Q Okay. And during the Reconstruction,  
11 that was basically the period of time in which  
12 Texas was becoming again part of a United States,  
13 correct?

14 A That's correct.

15 Q Okay. And during that time period  
16 there was federal control of the State, correct?

17 A There was what?

18 Q Federal --

19 A Yes, uh-hum.

20 Q -- control of the State. All right.  
21 And then, up in 1874 Edmund Davis left office,  
22 correct?

23 A That's correct.

24 Q All right. And then, from 1874, if  
25 you go up the list -- well, you have to go all

1 the way to 1987 before we find a Republican  
2 Governor, correct?

3 A That's correct.

4 Q And that Republican Governor was  
5 Governor Clements, correct?

6 A Correct.

7 Q And then, he served --

8 MS. WESTFALL: Objection. Misstating  
9 the document.

10 BY MR. KEISTER:

11 Q And then, he served on term. And  
12 then, Mark White became Governor in 1983,  
13 correct?

14 A It looks to me like Clements served  
15 two terms, both '79 to '83 and '87 to '91.

16 Q Oh, that's correct. I apologize.  
17 We've got both of them here.

18 A And I believe he may have originally  
19 run as a Democrat, but I'm not certain about  
20 that. But, at any rate, he ended -- he was  
21 certainly Republican his second term --

22 Q Okay.

23 A -- in office.

24 Q And if we read this in order, it was  
25 Bill Clements in '79, you're correct. And then,

1 Mark White served from '83 to '87, correct?

2 A Well, he did, but I think he may have  
3 served another term as well, '68 through '70.  
4 Oh, that's -- okay, all right, yes.

5 Q Okay? And then, Mark White was a  
6 Democrat, correct?

7 A That's right.

8 Q And isn't it correct that, after Mark  
9 White served, that Clements ran against him  
10 again, and Clements won his second term? Is that  
11 --

12 A I believe that's correct.

13 Q Okay. And then, after Bill Clements'  
14 second term, then Ann Richards, who is a  
15 Democrat, became Governor, correct?

16 A Yes.

17 Q And then, we had, of course, George W.  
18 Bush, who is a Republican, became Governor,  
19 correct?

20 A Yes.

21 Q And then, we have Rick Perry became  
22 Governor and is Governor today, correct?

23 A That's correct.

24 Q All right. So, basically, throughout  
25 this history, from the time of Reconstruction,

1 when Edmund J. Davis, the last Republican left  
2 office, we had approximately 105 years of  
3 Democratic Governors in the State of Texas,  
4 correct?

5 A Yes.

6 Q Up until the time that Bill Clements  
7 broke that string?

8 And throughout your report, you talk  
9 about the history of discrimination, racial  
10 discrimination, in Texas politics with issues  
11 like poll tax, White primary, those things.  
12 Isn't it true that throughout that history the  
13 State of Texas was under the control of the  
14 Democratic Party?

15 A Yes, sir.

16 (Whereupon, the document was  
17 marked as Davidson Exhibit  
18 No. 6 for identification.)

19 BY MR. KEISTER:

20 Q Okay. Let me show you, sir, what I've  
21 marked as Exhibit No. 6. And I'll represent to  
22 you, sir, this is another document that I took  
23 from the internet, from the Legislative Reference  
24 Library of Texas. And like the list of  
25 Governors, this is a list of the Lieutenant



1     **Governors of Texas, correct?**

2             A        Yes.

3             Q        And before we go there, with respect  
4     to the list of Governors in Exhibit 5, did you  
5     see anything on that list that you thought was  
6     out of place or incorrect, other than the double  
7     listing of Governor Clements' two terms?

8             A        Not just at a glance, no.

9             Q        Okay. All right. Thank you.

10            Then, back to Exhibit No. 6, this is  
11   the list of Lieutenant Governors in Texas,  
12   correct?

13            A        Yes.

14            Q        And once again, if we start at the  
15   bottom, we see the first Lieutenant Governor was  
16   Albert Clinton Horton. He served back in 1846 to  
17   1847. He was a Democrat, correct?

18            A        Yes.

19            Q        And then, from that point going  
20   upwards, we have an unbroken string of Democrats  
21   up until Edward Clark. He is noted to be an  
22   Independent, correct?

23            A        Yes.

24            Q        And then, from Edward Clark going all  
25   the way up 1991 -- no, I'll take that back -- up

1 to 1999, when Rick Perry was elected Lieutenant  
2 Governor as a Republican, there's an unbroken  
3 string of Democrats of Lieutenant Governors,  
4 correct?

5 A Yes, sir.

6 Q And then, the only Republican  
7 Lieutenant Governors on this list are those that  
8 began with Rick Perry, beginning 1999. Then, we  
9 had Bill Ratliff to take over in 2000, and then,  
10 David Dewhurst who took over in 2003 and has  
11 served until the present, correct?

12 A That's correct.

13 Q Yes. So, with respect to the list of  
14 Lieutenant Governors, if my math is correct,  
15 we've got a 126-year string of Democrat  
16 Lieutenant Governors, correct?

17 A That's correct.

18 Q Okay. Do you know when the  
19 Republicans finally were able to have a majority  
20 of Republicans in the State Senate?

21 A Not offhand, no.

22 Q Okay. It was 1996. Sound familiar to  
23 you?

24 A Okay.

25 (Whereupon, the document was

1 marked as Davidson Exhibit

2 No. 7 for identification.)

3 BY MR. KEISTER:

4 Q Let me show you what I've marked as  
5 Exhibit 7, sir. And once again, this is another  
6 document taken from the internet, from the  
7 Legislative Reference Library. And this is a  
8 list of the Speakers of the Texas House of  
9 Representatives, correct?

10 A Yes, sir.

11 Q And it sets out their parties as well  
12 as their terms in office, correct?

13 A Yes, sir.

14 Q Okay. And if we look at the very  
15 bottom, apparently, the first Speaker was William  
16 Bourland, who is a Democrat, 1846 to 1847,  
17 correct?

18 A Yes, sir.

19 Q And are you aware, sir, that the  
20 Speaker of the House is chosen by a vote of the  
21 Members of the House, correct?

22 A That's correct.

23 Q And typically speaking, when the  
24 majority in the House is Democrats, then the  
25 Speaker is Democratic, correct?

1 A I would say, typically speaking, yes.

2 Q And typically speaking, when the  
3 majority is Republican, the Speaker is  
4 Republican, correct? Correct?

5 A Yes.

6 Q Okay. Thank you.

7 All right. So, if look from William  
8 Bourland and we go upwards, we had an unbroken  
9 string of Democrats up until the end of the Civil  
10 War, correct, which was 18-- -- we have such last  
11 Democrat at the end of the Civil War --

12 A Yes.

13 Q -- which is Marion DeKalb Taylor,  
14 Democrat, 1863 to 1866, correct?

15 A Yes.

16 Q And at the end of the Civil War, we  
17 went into Reconstruction, correct?

18 A Yes.

19 Q And it looks like we had a Unionist  
20 who was the Speaker. That was Nathaniel Macon  
21 Burford, correct?

22 A Yes.

23 Q And then, we had two Republican  
24 Speakers, Ira Hobart Evans and William Henry  
25 Sinclair, correct?

1 A Yes.

2 Q Sinclair left office in 1873, correct?

3 MS. WESTFALL: I just want to make an  
4 objection. The document speaks for itself.  
5 You're just asking him to confirm his reading of  
6 the document, correct?

7 BY MR. KEISTER:

8 Q Is that correct?

9 A That's my understanding, yes.

10 Q From --

11 MS. WESTFALL: Based on the review of  
12 Exhibit 7.

13 BY MR. KEISTER:

14 Q And then, after the last Republican,  
15 William Henry Sinclair, left office in 1873, we  
16 see an unbroken string of Democrats all the way  
17 up to the second from the top, which is Tom  
18 Craddick, who is a Republican and took office in  
19 2003, correct?

20 A Yes.

21 Q And so, Tom Craddick served as Speaker  
22 from 2003 to 2009, correct?

23 A Yes.

24 Q And then, the next Speaker is Joe  
25 Straus. He's a Republican, correct?

1 A Yes.

2 Q And he came into office in 2009 and is  
3 still presently in office, correct?

4 A Yes.

5 Q Okay. So, just looking at the list of  
6 the Speakers, if my math is correct, we had a  
7 130-year string of Democrat Speakers of the  
8 House. Does that sound correct?

9 A Yes.

10 Q Okay. Do you when, looking at this  
11 list, when the Republican Party finally gained a  
12 majority of Representatives in the House?

13 MS. WESTFALL: Objection. Since  
14 that's not into evidence, foundation.

15 THE WITNESS: Well, assuming that you  
16 need a Republican majority in the House to elect  
17 a Republican Speaker, that would have been in  
18 2003 and continuing to the present.

19 BY MR. KEISTER:

20 Q From your expertise from a historian  
21 and someone with knowledge of Texas politics, do  
22 you see anything on this list that you think is  
23 incorrect?

24 A No. Given my quick reading of a great  
25 deal of data here.

1           Q       But nothing jumps out at you as being  
2 incorrect?

3           A       I'm sorry?

4           Q       Nothing jumps out at you on that page  
5 as --

6           A       No.

7           Q       -- being incorrect?

8                               (Whereupon, the document was  
9                               marked as Davidson Exhibit  
10                              No. 8 for identification.)

11                   BY MR. KEISTER:

12           Q       Let me show you, sir, what I'm marking  
13 as Exhibit 8, which is also a document taken from  
14 the Legislative Reference Library of Texas. And  
15 this information sets out the former Attorney  
16 Generals of the State of Texas.

17                   MS. WESTFALL: Is there a question  
18 pending?

19                   MR. KEISTER: There is as soon as I  
20 think of it.

21                   BY MR. KEISTER:

22           Q       Okay. The first category is actually  
23 the Attorney Generals of the Republic of Texas,  
24 correct?

25           A       Yes.

1 Q And then, we come down to the second  
2 category which is the Attorney Generals of the  
3 State, correct?

4 A Yes.

5 Q And then, we see in that first  
6 category, pre-Civil War, we see the Attorney  
7 Generals listed, correct?

8 A Yes.

9 Q And over to the right, not all of the  
10 Attorney Generals prior to the Civil War are  
11 listed by party, correct?

12 A That's correct.

13 Q Okay. However, the last Attorney  
14 General before the Civil War was a Democrat.  
15 That was Malcolm Dr. Graham, correct?

16 A Yes.

17 Q And then, during the Confederacy,  
18 there's two Attorney Generals listed as  
19 Democrats, correct?

20 A Yes.

21 Q George M. Flourney and N. G. Shelley,  
22 correct?

23 A Yes.

24 Q And then, we had B. E. Tarver. He  
25 doesn't have a party designation listed, correct?



1 A Yes.

2 Q All right. And then, we come down to  
3 the Reconstruction Period and we see William  
4 Alexander, who was a Unionist, served as Attorney  
5 General up until 1866, correct?

6 A Yes.

7 Q And then, W. M. Walton, who was a  
8 Democrat, served up until 1867, correct?

9 A Yes.

10 Q And then, we have a mixture. We have  
11 a Republican, an Independent, and then, a  
12 Republican again, correct?

13 A Yes.

14 Q And the last Republican at the end of  
15 Reconstruction was William Alexander, correct?

16 A Yes.

17 Q All right. And then, looking down the  
18 list, following Reconstruction, the first  
19 Attorney General is George Clark, who is a  
20 Democrat, correct?

21 A Yes.

22 Q And then, there is a George McCormick  
23 two down who doesn't have a party listed,  
24 correct?

25 A Yes.

1 Q And McCormick was 1878 to 1880,  
2 correct?

3 A Yes.

4 Q And then, from that period forward, we  
5 see an unbroken stream of Democrats down to 1999,  
6 when John Cornyn, who is a Republican, was  
7 elected Attorney General, correct?

8 A Yes.

9 Q And then, below that, we see Greg  
10 Abbott, who was elected in 2002, a Republican, as  
11 Attorney General, correct?

12 A Yes.

13 Q So, there was an approximate 125-year  
14 string of Democrat Attorney Generals before a  
15 Republican is elected in 1999, correct?

16 A Yes.

17 (Whereupon, the document was  
18 marked as Davidson Exhibit  
19 No. 9 for identification.)

20 BY MR. KEISTER:

21 Q I show you now a document, sir, which  
22 is marked as Exhibit 9, which is another document  
23 from the Legislative Reference Library of Texas.  
24 And this particular document shows the party  
25 affiliation on the first day of the legislative

1 session throughout the history of Texas, correct?

2 And you can take a moment and look at it.

3 A Yes.

4 Q And if you turn to the last page,  
5 looking upward from the end of Reconstruction,  
6 which was 1874, approximately --

7 MS. WESTFALL: Objection. Question  
8 pending?

9 BY MR. KEISTER:

10 Q Then, we begin to see that in 1876 the  
11 Legislature of the House was made up of 81  
12 Democrats and 7 Republicans, correct?

13 A Yes.

14 Q And the Senate had 26 Democrats and 3  
15 Republicans, correct?

16 A Yes.

17 Q And one "other" --

18 A Yes.

19 Q -- correct?

20 And then, as we proceed through the  
21 years upwards, up the page, we see in every  
22 legislative session that both the House and the  
23 Senate were overwhelming dominated by Republican  
24 Members, correct?

25 A I believe that's not true.

1 Q Okay.

2 A It was by Democratic.

3 Q Did I say "Republican"?

4 A Yes.

5 Q Well, thank you.

6 (Laughter.)

7 Thanks for that correction.

8 Going up the list -- we'll get up  
9 there soon -- going up the list from the  
10 beginning, we see that the House and Senate were  
11 overwhelming populated by Democrats, correct?

12 A Correct.

13 Q And, in fact, the Republicans had very  
14 small numbers, on this page mainly like one  
15 Member, two Members, three Members, that type of  
16 thing, correct?

17 A Yes. And finally, no Members.

18 Q Finally, no Members.

19 And then, going to the first page,  
20 continuing up the list, we see the same thing;  
21 many of these no Republican Members. Then, all  
22 the way up until approximately 1971, then we see  
23 the Republicans had ten Members in the House and  
24 two in the Senate, correct?

25 A Yes.

1 Q And then, they gradually picked up  
2 little by little by little, all the way until  
3 1999, when the Republicans -- I'll take that back  
4 -- 1997, when the Republicans took a slight  
5 majority in the Senate, which was 16 Republicans  
6 and 14 Democrats, correct?

7 A Yes.

8 Q And then, the House remained under  
9 Democratic control that year, correct?

10 A Yes.

11 Q And then, the Republicans stayed in  
12 control by the Senate, correct?

13 A Yes.

14 Q And then, all the way up until, it was  
15 all the way up 'til 2003, when the Republicans  
16 first took a majority in the House, correct?

17 A Yes.

18 Q And in that same year, they also had  
19 a majority in the Senate, correct?

20 A Yes.

21 Q And from 2003 forward, both the House  
22 and the Senate have been under Republican  
23 control, correct?

24 A Yes.

25 Q Okay. And with respect to Exhibit No.

1 9, sir, based upon your expertise in history and  
2 the history of politics in Texas, does anything  
3 on that list appear to be inaccurate to you?

4 A No.

5 (Whereupon, the document was  
6 marked as Davidson Exhibit  
7 No. 10 for identification.)

8 BY MR. KEISTER:

9 Q Okay. Let me show you, sir, what I am  
10 marking as Exhibit No. 10. And I will represent  
11 to you that this is not from the Legislative  
12 Reference Library, but I did find this off the  
13 internet on Wikipedia.

14 And Exhibit No. 10 is a list of the  
15 Supreme Court Justices in Texas throughout  
16 history.

17 MS. WESTFALL: I would like a standing  
18 objection to this exhibit on the basis of  
19 relevance.

20 MR. KEISTER: Okay.

21 BY MR. KEISTER:

22 Q And if you turn to page 3 of the  
23 exhibit, you will see that it starts to show each  
24 place on the Supreme Court and the members of the  
25 Supreme Court and the party to which they

1 belonged. And that continues all the way through  
2 to the third page of the document, correct? I  
3 will take that back to the one, two, three, to  
4 the fifth page of the document.

5 A Yes.

6 Q Okay. Now just reviewing this briefly  
7 -- we are not going to spend a whole lot of time  
8 on it -- but, with respect to each Supreme Court  
9 place or seat on the Texas Supreme Court, that  
10 each was dominated by Democratic members all the  
11 way down to the 1980s, correct?

12 A Yes.

13 Q And then, in the late 1980s we began  
14 to see a Republican breaking in here and there,  
15 correct?

16 A Yes.

17 Q And there, of course, was a mixture of  
18 Republicans and Democrats. And then, we get down  
19 to the present-day Court, which is all  
20 Republicans, correct?

21 MS. WESTFALL: Objection. Vague.

22 THE WITNESS: That's on the first or  
23 the second page. Yes, I think you're right.

24 BY MR. KEISTER:

25 Q Yes.

1 A That's right; they're all Republicans.

2 Q Okay. Thank you.

3 Just based upon your expertise as a  
4 historian and a person with expertise in the  
5 history of Texas politics, do you see anything  
6 with respect to the list of the members of the  
7 Supreme Court that seems incorrect to you?

8 A No.

9 Q In your report you talk about or  
10 discuss election fraud/voter fraud in Texas,  
11 correct?

12 A Yes.

13 Q And is it your contention in your  
14 report that there is no in-person voter fraud in  
15 Texas?

16 MS. WESTFALL: Objection. Would you  
17 like to direct the witness to particular  
18 paragraphs?

19 BY MR. KEISTER:

20 Q Is it your contention that there is no  
21 in-person voter fraud in Texas?

22 A If I my memory serves me, I say that  
23 there is virtually none, and in terms of, at  
24 least in terms of such fraud as has been  
25 identified, less than ten cases, perhaps less



1 than two -- I mean no more than two cases out of  
2 millions and millions of vote cast --

3 Q Okay.

4 A -- votes cast.

5 Q Okay. So, regardless of the numbers  
6 of votes cast, you would agree that there have  
7 been documented cases of in-person voter fraud in  
8 Texas over the years, correct?

9 A That there has --

10 MS. WESTFALL: Objection.  
11 Mischaracterizes his testimony.

12 BY MR. KEISTER:

13 Q That there has been documented cases  
14 of in-person voter fraud in Texas --

15 A There --

16 MS. WESTFALL: Objection. Unclear.  
17 What do you mean by "documented".

18 MR. KEISTER: All right. Let's start  
19 over.

20 BY MR. KEISTER:

21 Q You would agree, would you not, that  
22 throughout the years there have been cases of in-  
23 person voter fraud in the State of Texas?

24 MS. WESTFALL: Objection. Vague. Not  
25 clear what is meant by "cases".

1 THE WITNESS: In terms of cases of in-  
2 person vote fraud that have been successfully  
3 prosecuted, I would hold that the evidence  
4 indicates that there have been virtually no  
5 cases.

6 BY MR. KEISTER:

7 Q Okay. And why do you state there have  
8 been virtually no cases?

9 A Because since Greg Abbott's statement  
10 on his website in 2006 that there was an epidemic  
11 of vote fraud in the State of Texas, a great deal  
12 of effort on the part of his office and that of  
13 many other proponents of a photo ID requirement,  
14 there have been virtually no cases of in-person  
15 vote fraud, which is the only kind of vote fraud  
16 that would have been prevented by photo IDs.  
17 There have been virtually no cases of this  
18 successfully prosecuted.

19 Q Virtually no cases or no cases?

20 MS. WESTFALL: Objection. Asked and  
21 answered.

22 THE WITNESS: Perhaps as many as two  
23 cases, but I think some people say, no, none;  
24 some people say two, and I'll leave it at that.

25 BY MR. KEISTER:

1           **Q**       **Okay. So, based upon that statement,**  
2 **from your perspective, there have been some in-**  
3 **person voter fraud cases prosecuted in the State**  
4 **of Texas?**

5                   MS. WESTFALL: Objection. Asked and  
6 answered. Objection. Outside of the expert's  
7 expertise, except to the extent of what the  
8 Legislature heard about this topic.

9                   THE WITNESS: Possibly.

10           **BY MR. KEISTER:**

11           **Q**       **Okay. Possibly or probably? Do you**  
12 **know, sir?**

13           A        I don't --

14                   MS. WESTFALL: Objection. Asked and  
15 answered.

16           **BY MR. KEISTER:**

17           **Q**       **Okay. During your research, have you**  
18 **found any documentation that demonstrates that**  
19 **there have been cases of in-person voter fraud**  
20 **that have been prosecuted in the State of Texas?**

21           A        Not that I can recollect.

22           **Q**       **Okay. Did you search for any**  
23 **documentation of cases of in-person voter fraud**  
24 **that have been prosecuted in the State of Texas**  
25 **when you were doing your research for this**

1 report?

2 A In the sense that I looked carefully  
3 at the mass media in this regard and looked at  
4 some of the legislative records, and that's the  
5 extent. I did not do a personal search of it for  
6 in-person voter fraud.

7 Q Okay. When you did your search for  
8 in-person voter fraud or any voter fraud, did you  
9 concentrate only on the Attorney General's  
10 Office?

11 MS. WESTFALL: Objection. Misstates  
12 the witness' testimony.

13 THE WITNESS: No.

14 BY MR. KEISTER:

15 Q Okay. Did you search for cases of  
16 voter fraud prosecuted by the Department of  
17 Justice in the State of Texas?

18 MS. WESTFALL: Objection. Relevance.

19 THE WITNESS: No.

20 BY MR. KEISTER:

21 Q Did you search for cases of voter  
22 fraud prosecuted by District Attorneys in the  
23 State of Texas?

24 A It depends on what you mean by  
25 "search". I kept an eye out in the media for any

1 evidence to that effect and was very eager to  
2 find those cases, given the importance of this  
3 sort of information, and was unable to come up  
4 with any.

5 **Q Okay. So, as we sit here today, your**  
6 **research turned up no documentation of voter**  
7 **fraud cases prosecuted by District Attorneys in**  
8 **the State of Texas, is that correct?**

9 MS. WESTFALL: Objection. Misstates  
10 the witness' testimony.

11 THE WITNESS: In-person.

12 **BY MR. KEISTER:**

13 **Q Okay.**

14 **A We are talking about in-person --**

15 **Q Well, we can talk about --**

16 **A -- voter fraud.**

17 **Q Okay. In-person or any other voter**  
18 **fraud?**

19 **A Well, that's a whole different subject**  
20 **matter.**

21 **Q Okay. We'll come back to it. Just**  
22 **keep it, so there's no confusion.**

23 **Have you, in your research, have you**  
24 **determined how many cases of in-person voter**  
25 **fraud have been prosecuted by County Attorneys in**

1 the State of Texas?

2 A I've come across no evidence of such.

3 Q Okay. Now you brought up a correct  
4 point, and I'm glad you did, and that's in  
5 addition to in-person voter fraud. You agree, do  
6 you not, that in addition to in-person voter  
7 fraud, there are various other types of voter  
8 fraud that have occurred in the State of Texas,  
9 correct?

10 MS. WESTFALL: Objection. Form.  
11 Leading.

12 THE WITNESS: Well, when you say "in  
13 addition to," that implies that I think there is  
14 in-person voter fraud, and I'm not sure there is.  
15 But, with regard to the other kinds, I do believe  
16 that there are some other kinds of voter fraud  
17 that do occur in the State of Texas.

18 BY MR. KEISTER:

19 Q And what type of voter fraud have you  
20 come across in your research?

21 A The primary one is mail fraud, mail  
22 imbalance.

23 Q Okay. Okay. Anything else?

24 A That's the only one that comes to  
25 mind.

1           **Q       Okay. Have you found any references**  
2 **to voter fraud with respect to registration of**  
3 **voters?**

4                   MS. WESTFALL: Objection. Vague. And  
5 objection. Irrelevant.

6                   THE WITNESS: Would you repeat the  
7 question?

8                   **BY MR. KEISTER:**

9           **Q       Yes. During your research and**  
10 **preparation and report in this case, did you come**  
11 **across any documentation of cases that were**  
12 **prosecuted based upon illegal registration of**  
13 **voters in the State of Texas?**

14                   MS. WESTFALL: Objection. Relevance.

15                   THE WITNESS: I don't recall.

16                   **BY MR. KEISTER:**

17           **Q       Did you come across any evidence of**  
18 **persons in the State of Texas being convicted for**  
19 **voting in more than one state?**

20                   MS. WESTFALL: Objection. Relevance.

21                   THE WITNESS: I don't recall.

22                   **BY MR. KEISTER:**

23           **Q       You're from Houston, correct?**

24           **A       I'm sorry?**

25           **Q       You're from Houston? You live in**

1 Houston?

2 A I live in Houston, yes.

3 Q You don't recall a recent case in  
4 Galveston where a person was convicted for voting  
5 in two states?

6 MS. WESTFALL: Objection. Assumes  
7 facts.

8 THE WITNESS: I don't recall that.

9 BY MR. KEISTER:

10 Q Okay. All right. But, as we sit here  
11 today, you acknowledge that, while you may or may  
12 not agree that there is in-person voter fraud in  
13 Texas, you agree that there have been other forms  
14 of voter fraud in Texas, correct?

15 A Yes, indeed.

16 Q And you agree that, even during the  
17 debates on the S.B. 14 and the earlier debates in  
18 the Texas House and Senate, that the persons, the  
19 Members who were opposed to photo ID also  
20 acknowledged that there were other forms of voter  
21 fraud in Texas, correct?

22 A That's correct.

23 Q Okay. So, whether or not a person  
24 wants to acknowledge the existence of in-person  
25 voter fraud in Texas, one cannot disclaim the



1 fact that voter fraud in Texas has and does  
2 occur, correct?

3 MS. WESTFALL: Objection.

4 Argumentative. Objection. Assumes facts.

5 Objection. Foundation.

6 BY MR. KEISTER:

7 Q Correct?

8 A That's correct.

9 Q Okay. And one cannot dispute the fact  
10 that the public is aware of the fact that voter  
11 fraud in its various forms has occurred in the  
12 State of Texas, correct?

13 MS. WESTFALL: Objection. Calls for  
14 speculation. Objection. Form. Objection.  
15 Leading.

16 THE WITNESS: Could you repeat the  
17 question?

18 BY MR. KEISTER:

19 Q Yes. You, yourself, are a member of  
20 the population of the State of Texas, correct?

21 A That's true.

22 Q And as someone who lives in the State  
23 of Texas, you are aware that the press has  
24 publicized the fact that there are various forms  
25 of voter fraud that have occurred throughout the

1 years in Texas, correct?

2 A Yes.

3 Q And therefore, and in your research  
4 you have found numerous articles that talk about  
5 those other forms of voter fraud, correct?

6 A Yes.

7 Q So, isn't it fair saying that the  
8 population of the State of Texas has knowledge of  
9 the fact that voter fraud, in whatever form it  
10 takes, occurs, has occurred in the State of  
11 Texas, correct?

12 MS. WESTFALL: Objection. Calls for  
13 speculation. Form. Relevance.

14 THE WITNESS: It goes to your  
15 definition of "the public," which consists of  
16 every member of the State, every person who lives  
17 in the State of Texas.

18 BY MR. KEISTER:

19 Q Right. Well, let me make it more  
20 general. Generally speaking, hasn't it been  
21 publicized to the public, the fact that there are  
22 various forms of voter fraud that have occurred  
23 in the State of Texas over the years?

24 A Yes.

25 MS. WESTFALL: Objection. Vague.

1 BY MR. KEISTER:

2 Q And so, anything that would encourage  
3 the public to -- or scratch that.

4 Whatever conduct can be taken to  
5 alleviate the public of Texas of that concern  
6 that voter fraud is no longer occurring in Texas  
7 would be a beneficial thing to the public of  
8 Texas, correct?

9 MS. WESTFALL: Objection. Calls for  
10 speculation.

11 THE WITNESS: If you're asking me, if  
12 voter fraud were to be abolished, that would  
13 allay the public's concern with voter fraud,  
14 perhaps it would; perhaps it wouldn't. I think  
15 some people would continue to speculate that  
16 there was fraud, simply by virtue of their  
17 candidates having lost in a narrow election.

18 BY MR. KEISTER:

19 Q But efforts undertaken by the State to  
20 make it less likely that the various forms of  
21 voter fraud is going to occur would alleviate,  
22 hopefully, the fears of the public of Texas that  
23 voter fraud is occurring, correct?

24 MS. WESTFALL: Objection. Calls for  
25 speculation. Objection. Unclear use of the term

1 "voter fraud".

2 THE WITNESS: Well, again, your term  
3 "hopefully" there is what I would say. Yes, one  
4 would hope that would occur.

5 BY MR. KEISTER:

6 Q Because here in Texas there has been  
7 a long, long history of documented voter fraud,  
8 correct?

9 MS. WESTFALL: Objection. Assumes  
10 facts. Objection. Mischaracterizes the  
11 testimony.

12 THE WITNESS: There has been knowledge  
13 of voter fraud in Texas.

14 BY MR. KEISTER:

15 Q You grew up in Texas, as did I,  
16 correct?

17 A Yes.

18 Q And you're aware, as I am, of the  
19 documented incidents of voter fraud that occurred  
20 in the early elections when Lyndon Baines Johnson  
21 was running for Senator, correct?

22 A Certain -- Box 13.

23 Q Right. And even before Box 13, when  
24 Lyndon Johnson first ran for Senator, he was  
25 defeated by Pappy O'Daniel, correct?

1 A Yes.

2 Q And wasn't it quietly accepted that  
3 Pappy O'Daniel defeated Lyndon Johnson by the use  
4 of voter fraud?

5 A Yes.

6 Q And then, on the next opportunity to  
7 run, Lyndon Johnson ran against Coke Stevenson,  
8 correct?

9 A Correct.

10 Q And that was a very heated election,  
11 correct?

12 A Yes, sir.

13 Q And during that election, it took  
14 several weeks to decide who was the winner of  
15 that election, correct?

16 A I believe that's so.

17 Q Okay. And ultimately, Lyndon Johnson  
18 defeated Coke Stevenson, correct?

19 A In one sense or another.

20 Q In one sense or another. And the big  
21 sense was the Box 13 you mentioned, correct?

22 A Yes.

23 Q And can you tell the Court what the  
24 Box 13 you're referring to is or was?

25 A Well, it was a box into which ballots

1 had been stuffed, as I recollect, and they were  
2 illegally-cast ballots that essentially enabled  
3 Lyndon Johnson to be elected Senator.

4 Q Okay. And you're familiar with who  
5 the Parra family was down on the border, correct?

6 A Jack Parra's family.

7 Q Yes, Jack and Archie Parra and all  
8 that group. And you're familiar with the  
9 history, at least the history that the Parra  
10 family are the ones who assisted Lyndon Johnson  
11 with Box 13 --

12 MS. WESTFALL: Objection. Vague.  
13 Unclear. Relevance.

14 THE WITNESS: I believe so.

15 BY MR. KEISTER:

16 Q Okay. And you're aware that the  
17 people of Texas, particularly the people my age  
18 up to your age, fairly look at that election with  
19 a wink and a grin, correct?

20 MS. WESTFALL: Objection. Unclear.  
21 Vague. Calls for speculation.

22 THE WITNESS: I'm not quite sure what  
23 you mean there.

24 BY MR. KEISTER:

25 Q Well, we all hold -- not all of us,

1 but most of us -- hold President Johnson with  
2 some esteem in Texas, correct?

3 A I think that's probably so.

4 Q And even though we all know that his  
5 first election to the Senate was not necessarily  
6 there, most of us still hold him in high regard,  
7 correct?

8 MS. WESTFALL: I'm going to object to  
9 this continued long line of leading questions and  
10 the form of the questions. I want a standing  
11 objection. This has been going on for half-an-  
12 hour.

13 MR. KEISTER: You may have your  
14 standing objection.

15 BY MR. KEISTER:

16 Q Correct?

17 A Repeat the question, please?

18 Q Most of us in Texas still hold Lyndon  
19 Johnson in high regard, even though we know that  
20 he may or may not have actually defeated Coke  
21 Stevenson in the primary election when he was  
22 running for Senator the second time, correct?

23 A I guess I'm not aware of any recent  
24 survey of the adult population as to how they  
25 view Lyndon Johnson.

1           **Q       You're aware of what we're talking**  
2 **about here?**

3           A       Well, I'm aware of the Box 13 incident  
4 and --

5           **Q       Right.**

6           A       -- his having essentially won  
7 illegally.

8           **Q       And I'm aware of it. Wouldn't you**  
9 **agree that most people my age up to your age**  
10 **would be aware of this situation?**

11                   MS. WESTFALL: Objection. Calls for  
12 speculation. Asked and answered.

13                   THE WITNESS: We could assume, for  
14 sake of argument.

15                   **BY MR. KEISTER:**

16           **Q       Okay. And wouldn't you agree that**  
17 **most of us from our generation or generations,**  
18 **when we talk about this event, then it's like,**  
19 **"Yeah, that happened, but that's just the way it**  
20 **was."?**

21                   MS. WESTFALL: Objection. Vague.  
22 Unclear. Wholly unclear.

23                   THE WITNESS: I just, to repeat  
24 myself, I really don't know what even people our  
25 age think about Lyndon Johnson and whether they



1 do believe that he, that all things considered,  
2 he should have been elected President. I just  
3 don't know that, and it would take a public  
4 opinion poll to enlighten me on that subject.

5 BY MR. KEISTER:

6 Q Okay. And I'm trying to speak to you  
7 more about history than I am at this point about  
8 public opinion polls. You recall from your study  
9 of history that Lyndon Johnson did not deny the  
10 fact that there were some shenanigans that went  
11 on in that election, correct?

12 A Yes.

13 MS. WESTFALL: Objection. Vague.

14 BY MR. KEISTER:

15 Q At the same time, Coke Stevenson was  
16 engaged in the same type of shenanigans, correct?

17 MS. WESTFALL: Objection. Vague.

18 THE WITNESS: Generally speaking.

19 BY MR. KEISTER:

20 Q And the reason why Coke Stevenson did  
21 not contest the election was because he knew that  
22 his conduct was essentially the same as Lyndon B.  
23 Johnson's conduct during that election, correct?

24 MS. WESTFALL: Objection.

25 THE WITNESS: I think some people feel

1 that way, yes.

2 BY MR. KEISTER:

3 Q Okay. Now the interesting thing about  
4 those elections, LBJ's first Senate run and  
5 second Senate run, is those were all Democrats  
6 running against each other, correct?

7 A Yes.

8 Q LBJ was a Democrat?

9 A Yes.

10 Q Pappy O'Daniel was a Democrat?

11 A Yes. Coke Stevenson.

12 Q Coke Stevenson was a Democrat.

13 And the importance of that is because  
14 that was the Republican was kind of -- that had  
15 to be run, but everybody knew that the Democrat,  
16 whoever won the Democratic Primary won the  
17 election, correct?

18 MS. WESTFALL: Objection.

19 Argumentative. Assumes facts. Irrelevant.

20 THE WITNESS: I think that's possibly  
21 probably true.

22 BY MR. KEISTER:

23 Q Yes. And from your knowledge of Texas  
24 history and Texas politics, you know that, even  
25 though, obviously, to everybody in the LBJ

1 elections were the most notable or the most  
2 widely-know, but you know from your study of  
3 history that, even before those elections, the  
4 Democratic Primaries in Texas was notorious for  
5 election fraud, correct?

6 MS. WESTFALL: Objection. Calls for  
7 speculation. Unclear terms, "election fraud".

8 THE WITNESS: I didn't hear your  
9 complete sentence there. There was a word or two  
10 that I didn't get.

11 BY MR. KEISTER:

12 Q Okay. I was just saying, most people  
13 are aware of the fact that the LBJ Senate  
14 elections had some unusual events occur. But,  
15 even before those elections, from your knowledge  
16 as a historian and an expert in this case, you  
17 are aware that Texas elections, Democrat Primary  
18 elections, even before the LBJ elections,  
19 typically involved voter fraud issues or  
20 allegations of voter fraud?

21 MS. WESTFALL: Objection. Extremely  
22 confusing question. Assumes facts. Foundation.

23 THE WITNESS: Prior to 1944, there  
24 were some people in the State of Texas who  
25 believed that there was illegal voting going on.

1 And whether more in Texas than elsewhere, I don't  
2 know. More than today, I don't know.  
3 Again, polls would help answer that question, but  
4 we can't poll people back in the 1930s and '40s.

5 BY MR. KEISTER:

6 Q Okay. But you would certainly agree,  
7 without polling people, just based on history,  
8 that there has been a long history of voter fraud  
9 of different forms in the State of Texas,  
10 correct?

11 MS. WESTFALL: Objection.

12 Mischaracterizes his testimony. Assumes facts.  
13 Foundation. Relevance.

14 THE WITNESS: There has been voter  
15 fraud in the State of Texas that goes back quite  
16 a while, as is true in many states of the Union,  
17 yes.

18 BY MR. KEISTER:

19 Q And based upon that historical  
20 knowledge, it is not -- it wouldn't be unusual  
21 that the people of Texas, particularly the ones  
22 that have been there for a while, have an  
23 ingrained suspicion that voter fraud occurs in  
24 elections, correct?

25 MS. WESTFALL: Objection. Calls for

1 speculation. Objection. Asked and answered.

2 THE WITNESS: Again, I would want to  
3 see polling data. We do know certainly that  
4 there are some people who have that suspicion,  
5 and there are politicians who play on that  
6 suspicion. But here, as in so many other things  
7 regarding this particular case, what is really  
8 lacking is good, solid, scientific polling data  
9 to tell you what you really need to know about  
10 how people think and who the people are who think  
11 which way and with regard to what set of  
12 elections or candidates.

13 BY MR. KEISTER:

14 Q But, with respect to history and going  
15 up to -- well, I am not going to say "going up to  
16 debate" because I -- going up to the 2011 debates  
17 on S.B. 14, even the opponents of S.B. 14 during  
18 the debates of 2011 referenced the existence of  
19 voter fraud in the State of Texas, correct?

20 MS. WESTFALL: Objection.

21 BY MR. KEISTER:

22 Q Of all kinds, not just in-person?

23 MS. WESTFALL: Objection. Form.

24 Assumes facts. Calls for speculation.

25 Foundation.

1 THE WITNESS: I'm sorry, ask me that  
2 question once more.

3 BY MR. KEISTER:

4 Q Okay. I'll try to, although I'll just  
5 make it short.

6 Isn't it fact that in your paper you  
7 report statements made by various people, Members  
8 of the House and possibly the Senate, who during  
9 their debates on the Floor referenced forms of  
10 voter fraud that they believed were occurring in  
11 Texas? Correct?

12 A Yes.

13 Q So, as we sit, up until 2011, people  
14 in Texas recognized that there was and had been  
15 various forms of voter fraud occur in the State,  
16 correct?

17 MS. WESTFALL: Objection. Calls for  
18 speculation. "People" unclear.

19 THE WITNESS: Some people.

20 BY MR. KEISTER:

21 Q Okay.

22 A Some people.

23 Q Did you, yourself, recognize that  
24 there had been, and possibly continue to be,  
25 voter fraud in the State of Texas up until the

1 **debates of 2011?**

2 **MS. WESTFALL:** Asked and answered.

3 **THE WITNESS:** Yes.

4 **BY MR. KEISTER:**

5 **Q** **Okay.**

6 **A** Any chance of a break here sometime?

7 **Q** **All you've got to do is ask.**

8 (Laughter.)

9 I'll give you the same courtesy I  
10 invoked. Yes, please.

11 **MS. WESTFALL:** It's 12:00. Do you  
12 want to take a quick break and come back or do  
13 you want to keep going? Or lunch? What is your  
14 preference?

15 **MR. KEISTER:** Why don't we --

16 **MS. WESTFALL:** What is your preference?  
17 You're in charge. Are you hungry for lunch?

18 **THE WITNESS:** I would not mind a  
19 little lunch --

20 **MR. KEISTER:** Yes.

21 **THE WITNESS:** -- but I would defer to  
22 others.

23 (Whereupon, the foregoing matter went  
24 off the record for lunch at 12:01 p.m. and went  
25 back on the record at 12:43 p.m.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

12:43 p.m.

MR. KEISTER: Back on the record.

BY MR. KEISTER:

Q Dr. Davidson, before the break we were discussing voter fraud in Texas. And I want to ask you, during your review and research in this case, have you found that since 2005 up until today the voter fraud has been an ongoing discussion nationally?

MS. WESTFALL: Objection. Outside the scope of the report.

THE WITNESS: Yes, I think it has been.

BY MR. KEISTER:

Q Okay. And would you agree that voter fraud, just for a point in time, from 2005 up until today, has been a part of the national consciousness?

A Yes.

Q And would you agree that among the issues that has spurred discussions concerning voter fraud is misconduct of some organizations with respect to registration of voters?

MS. WESTFALL: Objection. Vague.



1 THE WITNESS: I'm trying to think of  
2 particular cases that have been in the news in  
3 that regard.

4 BY MR. KEISTER:

5 Q May I suggest one? Are you aware of  
6 the conduct of an organization called ACORN --

7 MS. WESTFALL: Objection. Vague.

8 BY MR. KEISTER:

9 Q -- that instigated a considerable  
10 amount of --

11 A Yes.

12 Q -- press with respect to --

13 A Yes.

14 Q -- with respect -- let me start this  
15 over because --

16 A Oh, I'm sorry.

17 Q She interrupted. Let's just start  
18 over.

19 Are you aware of an organization named  
20 ACORN?

21 A Yes.

22 Q Are you aware of ACORN having been  
23 convicted for engaging in conduct related to  
24 voter registration?

25 A Yes.

1           **Q       Do you recall approximately when that**  
2 **was?**

3           **A       I want to say it was the 2008**  
4 **election.**

5           **Q       And I believe you are right, the 2008**  
6 **election is the election from which the conduct**  
7 **occurred, but the actual convictions, I believe,**  
8 **are after 2008, correct?**

9           **A       I think that's correct.**

10          **Q       Yes. And ACORN was an association**  
11 **that was associated to some extent with the**  
12 **Democratic Party?**

13                   MS. WESTFALL: Objection. Standing  
14 objection to relevance on this line related to  
15 ACORN.

16                   THE WITNESS: Some relationship, yes.  
17 I'm not sure what it was.

18                   **BY MR. KEISTER:**

19          **Q       Okay. And there was some**  
20 **relationship, at least it was talked about in the**  
21 **news that there was some relationship between**  
22 **ACORN and President Obama?**

23                   MS. WESTFALL: Objection. Relevance.

24                   THE WITNESS: It was certainly talked  
25 about in the news.

1 BY MR. KEISTER:

2 Q Okay. And, in fact, there was some  
3 circles which felt like the conduct of ACORN and  
4 some events could have swayed the election of  
5 2008, correct?

6 A I'm sure there are some people who  
7 believe that.

8 Q Okay. And my point is, during the  
9 time period after the 2008 elections, voter fraud  
10 became an issue that was highly debated  
11 throughout the country, correct?

12 MS. WESTFALL: Objection. Asked and  
13 answered.

14 THE WITNESS: Pretty highly debated,  
15 yes.

16 BY MR. KEISTER:

17 Q So, the fact that people in Texas, and  
18 political people in Texas would have voter fraud  
19 issues on their mind really isn't that unusual  
20 compared to the rest of this country, is it?

21 MS. WESTFALL: Objection.  
22 Argumentative. Objection. Vague. Calls for  
23 speculation.

24 THE WITNESS: Would you repeat that,  
25 please?

1 BY MR. KEISTER:

2 Q Right. The fact that nationally voter  
3 fraud is being discussed in various forms, and  
4 voter registration was one which comes to mind,  
5 and I would suggest continues, the discussion  
6 continues up until today, is the fact that after  
7 2008 and going on up into 2011, the fact that  
8 voter fraud was nationally discussed on a fairly  
9 common, regular basis, is it unusual that it  
10 would be discussed in Texas, No. 1?

11 MS. WESTFALL: Objection. Extremely  
12 confusing question. Assumes facts. Lack of  
13 foundation. Calls for speculation and  
14 irrelevant.

15 THE WITNESS: There has been  
16 discussion of voter fraud in Texas and it  
17 reflects, I suppose, concern among some people  
18 outside of the State as well.

19 BY MR. KEISTER:

20 Q Okay. And the discussion that was  
21 going on nationally with respect to voter fraud  
22 during that time period reflects the discussions  
23 that were going on in Texas also, correct?

24 MS. WESTFALL: Objection. Assumes  
25 facts. Form. Foundation. Leading.

1 THE WITNESS: Well, there is voter  
2 fraud discussions that have been going on, both  
3 in Texas and nationally.

4 BY MR. KEISTER:

5 Q Okay. And the fact that people in  
6 Texas from 2005 up until 2011 believe there was  
7 voter fraud occurring in Texas as well as  
8 nationally did not make Texas different from the  
9 rest of the country in that regard, correct?

10 MS. WESTFALL: Objection. Assumes  
11 facts. Foundation. Argumentative. Leading.

12 THE WITNESS: We're part of the  
13 nation, and there are people in the State who are  
14 concerned, as people outside of the State are.

15 BY MR. KEISTER:

16 Q Okay. And is Texas the only state  
17 that has passed legislation or that passed  
18 legislation during that time period 2005 up until  
19 2011, that passed legislation with respect to  
20 voter photo ID?

21 MS. WESTFALL: Objection. Calls for  
22 a legal conclusion. Outside of the expert's  
23 expertise.

24 THE WITNESS: There are other states  
25 that have passed legislation.

1 BY MR. KEISTER:

2 Q Okay. As we sit here today, do you  
3 know how many states have passed photo voter ID  
4 legislation?

5 MS. WESTFALL: Objection. Calls for  
6 a legal conclusion.

7 THE WITNESS: Several. I don't know  
8 how many.

9 BY MR. KEISTER:

10 Q Okay. In your research and review for  
11 the preparation of your report, did you come  
12 across the number of the states and the  
13 particular states that have, in fact, enacted  
14 voter photo ID legislation?

15 MS. WESTFALL: Objection. Asked and  
16 answered.

17 THE WITNESS: I remember the names of  
18 some of the states, but I don't remember how  
19 many.

20 BY MR. KEISTER:

21 Q Okay. Do you recall how they're  
22 dispersed around the nation in terms of are some  
23 East Coast, West Coast, et cetera, et cetera?

24 A Well, there are various states around  
25 the country. That's kind of spread out

1 geographically.

2           **Q       Okay. And the states that have**  
3 **enacted photo voter ID laws are not limited to**  
4 **the South, correct?**

5           A       No, they're not.

6           **Q       Okay.**

7           A       By the way, I just want to mention one  
8 thing. Going back to an earlier question, and I  
9 am thinking about ACORN, and when that first  
10 became an issue in 2005, and I'm not sure that it  
11 was an issue at the time that the first  
12 predecessor of the bill, of S.B. 14, was actually  
13 begun. I just don't know that for a fact.

14           **Q       Okay. But those discussions**  
15 **nationally are going on even today with respect**  
16 **to voter fraud, correct?**

17                   MS. WESTFALL: Objection. Vague as to  
18 time period.

19                   THE WITNESS: They are going on, yes,  
20 in the current year.

21                   **BY MR. KEISTER:**

22           **Q       Okay. Do you have your report in**  
23 **front of you --**

24           A       Yes, I do, sir.

25           **Q       -- which I think is in Exhibit 1.**

1 A Exhibit 2 I think.

2 Q Or it's in 2. Okay.

3 Can you turn to page 41 of your  
4 report, please?

5 A Okay.

6 Q Let me get there.

7 On page 41 of your report, down at the  
8 bottom, you have a section that is titled "Likely  
9 Effect of S.B. 14," correct?

10 A Yes.

11 Q And then, under that first paragraph,  
12 you state, "The starting point of the Court's  
13 analysis of a purpose behind a legislative  
14 decision is often the likely expected effect of  
15 the decision. Assessing the likely effect of  
16 S.B. 14 is the task in this case. I have,  
17 however, been provided with findings which I  
18 summarize here."

19 Now why did you choose to summarize  
20 the findings of other experts in your report?

21 A Under this section? These were both  
22 reports that were provided to me by the Justice  
23 Department.

24 Q And are you, in fact, using these  
25 other reports to present your own opinions,



1 **despite the fact that that was not your mission**  
2 **in this case?**

3 MS. WESTFALL: Objection. Unclear,  
4 vague question as to mission.

5 THE WITNESS: What I am simply doing  
6 here is taking a look at information that was  
7 provided to me by the Justice Department, and  
8 that's why I looked at that.

9 **BY MR. KEISTER:**

10 **Q Okay. And you understand that the**  
11 **information that you're summarizing here is**  
12 **information that was generated by expert**  
13 **witnesses who were retained by other Plaintiffs**  
14 **in this case, correct.**

15 **A** That's correct.

16 MS. WESTFALL: Objection. Incorrect.  
17 Assumes facts.

18 **BY MR. KEISTER:**

19 **Q Plaintiffs and Plaintiff-Intervenors?**

20 MS. WESTFALL: We can go off the  
21 record if you would like.

22 MR. KEISTER: Well, okay, let's go off  
23 the record.

24 (Whereupon, the foregoing matter went  
25 off the record at 12:55 p.m. and went back on the

1 record at 12:56 p.m.)

2 MR. KEISTER: All right, back on the  
3 record.

4 BY MR. KEISTER:

5 Q All right. So, Dr. Davidson, this  
6 portion of your report is being based upon the  
7 expert reports of other expert witnesses that  
8 were retained by the Department of Justice,  
9 correct?

10 A Yes.

11 Q Okay. Did you do any analysis  
12 yourself of the information that was presented by  
13 either Dr. Ansolabehere or Gerald Webster other  
14 than simply reading their reports?

15 A No.

16 Q Okay. Do you have any factual basis  
17 for believing or for determining that their  
18 information is correct?

19 MS. WESTFALL: Objection. Vague.

20 MR. KEISTER: Yes. Let me do that  
21 again.

22 BY MR. KEISTER:

23 Q Do you have any factual basis, outside  
24 of the fact that these expert witnesses were  
25 retained by the Department of Justice, do you

1 **have any factual basis to say that their analysis**  
2 **was done incorrectly?**

3 MS. WESTFALL: Outside of their  
4 reports?

5 MR. KEISTER: Outside of their  
6 reports.

7 MS. WESTFALL: Outside of their  
8 reports.

9 THE WITNESS: I know that Professor  
10 Ansolabehere is very well-known and highly-  
11 respected in the field of political science. I  
12 do not know him personally. And I am not  
13 qualified to judge some of the mathematical  
14 techniques that he used, but I do know that he is  
15 a highly-respected person in the field.

16 **BY MR. KEISTER:**

17 **Q Okay. And that's my question. You do**  
18 **not claim to be qualified to give an assessment**  
19 **as to the accuracy of Dr. -- of, actually,**  
20 **Professor Ansolabehere's report, correct?**

21 **A** That's correct.

22 **Q All right. And does that hold true**  
23 **for Gerald Webster also?**

24 **A** Yes.

25 **Q That you do not claim the expertise**

1 to --

2 A Yes.

3 Q Okay. All right. So, basically, what  
4 you are reporting here is simply what you have  
5 taken off the face of those two reports, correct?

6 A Yes.

7 Q Okay.

8 A I've read them carefully.

9 Q Okay.

10 A There are some aspects of their  
11 techniques that I don't fully understand, but I  
12 have read them very carefully to make sure that,  
13 at least in terms of the logic of presentation  
14 and the standards of academic presentation, they  
15 meet my criteria for good academic work. But,  
16 beyond that, I can't speak to some of the  
17 techniques they make use of.

18 Q Okay. So, with respect to the numbers  
19 Professor Ansolabehere gives, those are simply  
20 the numbers that he gave in the report that you  
21 are copying here, correct?

22 A That's correct.

23 Q All right. Do you know the total  
24 number of registered voters in the State of  
25 Texas?

1 A No.

2 Q Okay. Have you ever learned that  
3 number in your research in this case?

4 A Not in my research in this case, and  
5 I can't remember about previously to that. But I  
6 don't know the exact number of registered voters,  
7 though.

8 Q Okay. So, if I ask you the number of  
9 Anglo registered voters or the number of African-  
10 American registered voters or the number of  
11 Hispanic registered voters in the State of Texas,  
12 is your answer going to be the same, that as we  
13 sit here today you don't know?

14 A Yes.

15 Q Okay. As we sit here today, do you  
16 know a rough percentage as between Anglos,  
17 African-Americans, and Hispanics, the rough  
18 percentage of the registered voters that each one  
19 of those constitute?

20 MS. WESTFALL: Objection. Asked and  
21 answered.

22 THE WITNESS: I don't.

23 BY MR. KEISTER:

24 Q Okay. Now, according to your report  
25 -- I'm on page 42 -- you state here that Dr.

1   **Ansolabehere was provided some additional**  
2   **information related to the Texas drivers'**  
3   **licenses, and that based on that additional**  
4   **information, he reduced the number of Texas**  
5   **registered voters who lagged any of the photo**  
6   **identification documents required in S.B. 14 down**  
7   **from 1.2 million to 786,727, correct?**

8           A       That is correct.

9           Q       Okay. And based upon that change in  
10   **his numbers, it is one of the changes that**  
11   **spurred you to provide your supplemental report**  
12   **in this case, correct?**

13          A       That's correct.

14          Q       Okay. Do you know, as we sit here  
15   **today, what the discrepancies were that led**  
16   **Professor Ansolabehere to making that amount of**  
17   **reduction?**

18               MS. WESTFALL: Objection. Vague.

19               THE WITNESS: I'm not remembering. I  
20   **did earlier, but I don't now.**

21               BY MR. KEISTER:

22          Q       Okay. That's okay. When it comes to  
23   **numbers, that's totally understandable.**

24               Well, we see here that, with respect  
25   **to that number, 786,727, in parentheses you state**

1 that that is 5.8 percent of the State's  
2 registered voters, correct?

3 A Yes.

4 Q Now did that percentage, did you take  
5 that strictly from Professor Ansolabehere's  
6 report?

7 A Yes.

8 Q Okay. You didn't try to make that  
9 determination on your own?

10 A That's correct.

11 Q Okay. Now, so 5.8 percent of the  
12 State's registered voters, according to the  
13 Professor, do not have an S.B.-14-sufficient ID,  
14 correct?

15 A Yes.

16 Q Which would mean that 94.2 percent of  
17 registered voters in the State do have an S.B.-  
18 14-compliant ID, correct?

19 A Yes.

20 Q And wouldn't you agree that, based  
21 upon that number, the vast, vast majority of  
22 registered voters in Texas do have an S.B.-14-  
23 compliant photo ID?

24 A Yes.

25 Q Okay. Now, out of that 786,727

1 people, how many of those people did Professor  
2 Ansolabehere conclude were Anglo?

3 MS. WESTFALL: Objection. This  
4 witness has testified he has not done anything  
5 beyond take Dr. Ansolabehere's findings and put  
6 them in his report. He is not familiar. He's  
7 just testified he's not familiar with anything  
8 beyond the four squares of the document which you  
9 have just read into the record.

10 MR. KEISTER: Well, this one seems  
11 like a pretty simple question.

12 BY MR. KEISTER:

13 Q We've got 786,727 people that  
14 Professor Ansolabehere says may not have a  
15 driver's license or S.B. 14 photo IDs. How many  
16 of those did he say were Anglos?

17 MS. WESTFALL: Objection. The  
18 document speaks for itself.

19 THE WITNESS: Three point six percent.

20 BY MR. KEISTER:

21 Q Did he say 3.6 percent of 786,727 were  
22 Anglo?

23 MS. WESTFALL: Objection. The  
24 document speaks for itself.

25 BY MR. KEISTER:



1           **Q       If you want to take a minute and read**  
2 **that?**

3           **A       Okay.**

4                   (Witness looks at document.)

5                   Yes, 3 percent of Anglo voters lack a  
6 required photo ID. And was that the answer to  
7 your question?

8           **Q       Well, I think that may be the answer**  
9 **to what Professor Ansolabehere is answering, but**  
10 **my question is this: I think or my**  
11 **interpretation of what I'm seeing here is that**  
12 **we're jumping from that number if 786,727 people**  
13 **who allegedly don't have photo IDs. They are a**  
14 **percentage of the population as opposed to a**  
15 **percentage of that number, is that correct?**

16           **A       Yes.**

17           **Q       Okay. Now my question is, how many of**  
18 **that 786,727 people are Anglo?**

19                   MS. WESTFALL: Objection. Asked and  
20 answered. This witness has testified he's not  
21 familiar with Dr. Ansolabehere's findings beyond  
22 what is within this exhibit on paragraph 69.

23                   THE WITNESS: I'm not familiar.

24                   **BY MR. KEISTER:**

25           **Q       Did you ever, did you read all of the**

1 **Professor's report?**

2 A Yes.

3 Q Okay. Did you see any place in the  
4 Professor's report where he gave us a very simple  
5 number out of the 786,727 people that he claims  
6 do not have S.B.-14-compliant IDs, how many of  
7 those people are Anglos? Did he ever make that  
8 statement, to your knowledge?

9 MS. WESTFALL: Objection. Compound.  
10 Form. Foundation. Outside of this witness'  
11 expertise.

12 THE WITNESS: I don't remember.

13 BY MR. KEISTER:

14 Q Okay. Do you remember if the  
15 Professor ever in his report stated, out of that  
16 number 786,727 people that he believes do not  
17 have S.B.-14-compliant IDs, how many of those  
18 people are African-Americans?

19 MS. WESTFALL: Compound. Foundation.  
20 Form.

21 THE WITNESS: I want to say that he  
22 does.

23 BY MR. KEISTER:

24 Q By looking at your report, can you  
25 make that determination, Doctor, as to how many

1 of that 786,727 people are African-American?

2 A No, not aside from citing his numbers.

3 Q Okay. And can you tell how many of  
4 that number, the 786,727, are Hispanic voters?

5 A Well, I mean, using his figures, I  
6 can.

7 Q Okay. And do you think the figures  
8 that he is reflecting here are his figures with  
9 respect to the percentages of that 786,000 or are  
10 those -- has he reverted back to population  
11 percentages?

12 A My understanding is that those are his  
13 figures.

14 Q Okay. Now do you understand what the  
15 difference is between the Professor's ecological  
16 regression figures are as compared to his  
17 Catalyst, LLC figures?

18 A No, I don't.

19 Q Okay. Would that be something that  
20 should be important in making an opinion to this  
21 case, to understand what it is the Professor is  
22 trying to relate by those percentages?

23 A I'm sorry, could you repeat that  
24 question?

25 Q Yes, sir. Do you think that, in

1 making an opinion in this case based upon those  
2 numbers, it would be helpful to understand what  
3 the Professor's intentions were in stating those  
4 separate calculations?

5 A It would figure into it, certainly.  
6 As I have said all along, however, that I am  
7 simply basing my decision to cite his figures on  
8 his reputation in the field. And I make no  
9 representation of my being able to do the kind of  
10 work that he is doing to arrive at these numbers.

11 Q Okay. Can you define for us the word  
12 "significant"?

13 A Important.

14 Q Okay. And in relation to racial  
15 disparity, what numbers qualify as being  
16 significant disparities between the races?

17 A Well --

18 MS. WESTFALL: Objection. Outside of  
19 his opinions in this case.

20 BY MR. KEISTER:

21 Q Well, if we look at the last sentence,  
22 Doctor, on page 42 of paragraph 69, you state  
23 that, "In short, the corrected database-matching  
24 process, like the estimates provided in Dr.  
25 Ansolabehere's initial report, and referenced in

1 paragraph 69 of my initial report, demonstrate  
2 that there is a significant racial disparity in  
3 possession of photo identification required by  
4 S.B. 14."

5 Did I read that correctly?

6 A Yes.

7 Q And my question is, what numbers, what  
8 percentage numbers qualify as significant racial  
9 disparity?

10 A Well, there's two senses of  
11 significant I think here that enter into this  
12 issue. And one is the common-sense term,  
13 "significant" meaning noteworthy, important,  
14 worth taking a look at, and then, what  
15 statisticians refer to as statistical  
16 significance. Those are two different things.

17 Q What's your --

18 A And mine is the former. I'm speaking  
19 as a non-statistician, saying that, to me, those  
20 seem like important differences in terms of how  
21 this law might impact the ability of people in  
22 the different ethnic groups to make their  
23 opinions heard.

24 Q Okay. So, as we sit here today, you  
25 are not claiming to be able to say that the

1 difference, if we look at the Catalyst, LLC  
2 numbers from the Professor, he says 5.1 percent  
3 of Anglo voters lack the required photo ID as  
4 compared to 6.4 percent of Hispanic voters. Now  
5 that's not a very big difference between Anglo  
6 and Hispanic, is it?

7 A It could be a significant difference  
8 in terms of how an election turns out, for  
9 example.

10 Q And I guess what I'm trying to get a  
11 handle on is, is it your contention that any  
12 difference between those percentages is going to  
13 be significant or is there a finite point where  
14 you say, you know, 5.1 to 9.2 is significance?

15 A I guess I --

16 MS. WESTFALL: Objection. Outside the  
17 scope of his opinions in this case.

18 THE WITNESS: If we're talking about  
19 statistical significance here, I simply can't  
20 answer that question.

21 BY MR. KEISTER:

22 Q Okay. So, and this may be the answer  
23 to my question, with respect to your last  
24 sentence concerning significant racial disparity,  
25 you're not basing that upon the differences in

1 the percentages that you have related above, is  
2 that correct?

3 MS. WESTFALL: Objection. Compound.  
4 Foundation. Misstates his testimony.

5 THE WITNESS: No, I am. I am basing  
6 it on those numbers. And I guess, again,  
7 significance in the common vernacular has a  
8 number of different meanings. And even a small  
9 difference could be important in a close race.  
10 So, I guess I don't want to say much more about  
11 it than that.

12 BY MR. KEISTER:

13 Q Well, and I appreciate that. Let me  
14 probe a little deeper because what we are talking  
15 about here is not a race, an election race. What  
16 we're talking about here is evidently the  
17 Professor's analysis as to the statistical  
18 differences between the percentages of Anglos,  
19 Hispanic, and African-American voters who do not  
20 have S.B. 14 ID, correct?

21 A I'm not sure that's true. Let me just  
22 read through this once more.

23 Q Okay.

24 (Witness looks at document.)

25 A I guess really all I want to say is

1 that the larger the difference in percentages,  
2 the more significant they are, not -- well,  
3 certainly statistically, but also in terms of the  
4 common vernacular, and in some cases having a  
5 very small percentage point difference, as, for  
6 example, the difference between 9.2 Black voters  
7 and 5.1 of Anglo voters, and even in some cases  
8 the 5.1 percent of Anglo voters and 6. Percent of  
9 Hispanic voters can make a significant difference  
10 in the turnout of an election.

11 **Q Okay. But, once again, we're not**  
12 **talking about turnout of the election in this**  
13 **paragraph, are we?**

14 **A Well --**

15 **Q Isn't the Professor talking about the**  
16 **differences in the possession or the lack of**  
17 **possession by the various groups of S.B.-14-**  
18 **compliant ID?**

19 MS. WESTFALL: Objection.  
20 Argumentative. Objection. Calls for speculation  
21 as to another expert's opinion.

22 THE WITNESS: I guess I would have to  
23 go back and look at his report to see whether he  
24 has both of those meanings of significance in  
25 mind here.



1 BY MR. KEISTER:

2 Q Okay. As we sit here today, can you  
3 tell me a gap in the percentages wherein the term  
4 "significant" would come into play?

5 MS. WESTFALL: Objection. Calls for  
6 speculation.

7 BY MR. KEISTER:

8 Q I mean, obviously, we don't always  
9 expect the percentages to be equal on every issue

10 --

11 A Right.

12 Q -- for Anglos, African-Americans, and  
13 Hispanics, correct?

14 A Right.

15 Q So, where with respect to this issue,  
16 wherein does the percentage gap become  
17 significant?

18 MS. WESTFALL: Objection. Calls  
19 for --

20 BY MR. KEISTER:

21 Q If you know it. If you don't know,  
22 that's fine.

23 MS. WESTFALL: Calls for speculation  
24 and outside of his expertise. Asked and  
25 answered.

1 THE WITNESS: I really don't know.

2 BY MR. KEISTER:

3 Q Okay. So, with respect to this part  
4 of the report, would you suggest that it's really  
5 Professor Ansolabehere who should be testifying  
6 about this issue and not yourself?

7 MS. WESTFALL: Objection.  
8 Argumentative and irrelevant.

9 THE WITNESS: Well, I'm willing to  
10 stick with what I said in the report about the  
11 differences between those numbers and the fact  
12 that they could be non-statistical as well as  
13 statistical sense.

14 BY MR. KEISTER:

15 Q Right. But, as we sit here today, you  
16 cannot tell the Court a finite place in the gap  
17 between the percentages wherein you can tell the  
18 Court at this point is where the percentage  
19 difference becomes significant?

20 MS. WESTFALL: Objection.  
21 Argumentative. Asked and answered. Outside of  
22 the scope of this expert's expertise.

23 THE WITNESS: No, I don't think so.

24 BY MR. KEISTER:

25 Q Okay. In your review of Professor

1   **Ansolabehere's report -- I'm going to start**  
2   **calling him "Ansa" for convenience (laughter) --**  
3   **report, did he make any determination as to the**  
4   **number of people, this number 786,727 -- let me**  
5   **start over.**

6                   **Of the 786,727 people that the**  
7   **Professor contends may not have S.B.-14-compliant**  
8   **ID, did you see in his report where he made any**  
9   **determination as to the number of people that do**  
10   **not have an ID but can obtain one?**

11                   **MS. WESTFALL: Objection. You're**  
12   **asking him to testify based on his memory of the**  
13   **expert report and not putting the expert report**  
14   **before him. Is that your question?**

15                   **THE WITNESS: I can't answer that.**

16                   **BY MR. KEISTER:**

17           **Q       Okay. You don't know?**

18           **A       I don't know.**

19           **Q       Okay. As we sit here today, do you**  
20   **know the number of people that do not have an**  
21   **S.B.-14-compliant ID but can, in fact, obtain one**  
22   **if they desired a visa?**

23           **A       No, sir.**

24           **Q       Okay. All we've been relying upon are**  
25   **the population numbers that the Professor puts in**

1 his report. Have you done any other analysis in  
2 this case to try to determine any numbers with  
3 respect to voting-age populations and people that  
4 do or do not have photo IDs?

5 A No, sir.

6 Q Okay. Looking on page 42, down under  
7 paragraph 70, you go into the report prepared by  
8 Geographer Gerald Webster, correct?

9 A Yes.

10 Q Okay. And have you discussed Gerald  
11 Webster's report with him?

12 A No.

13 Q Okay. And is the information that  
14 you're providing on page 42 and 43 with respect  
15 to Gerald Webster, is that information taken  
16 strictly from his expert report?

17 A Yes.

18 Q Have you made any independent  
19 investigations at all with respect to drive times  
20 and that type of information that's related in  
21 Gerald Webster's report?

22 A Nothing that I would count as  
23 scientific evidence.

24 Q Okay. Now you'll notice that in your  
25 report you utilize the word "access" with respect

1 to motor vehicles, correct?

2 A Yes.

3 Q When you use the word "access" to a  
4 motor vehicle in this portion of the report, is  
5 that your language or is that language that  
6 Gerald Webster used in his report?

7 A Can you point to me --

8 Q Sure.

9 A -- an example of where I use it that  
10 is --

11 Q Right. Look on page 43, and, let's  
12 see, see the sentence starting, "Professor  
13 Webster" in the second sentence up there on top?  
14 It starts, "Professor" --

15 A Uh-hum, uh-hum.

16 Q -- "Professor Webster's data"? Just  
17 read that sentence, please.

18 A "Professor Webster's data show that  
19 the Cities of Houston, San Antonio, and Dallas  
20 contain more than half of the Census tracts in  
21 Texas in which more than 25 percent of households  
22 do not have access to a motor vehicle."

23 Q Okay.

24 A I'm using his language there.

25 Q Okay. Do you know when Gerald Webster

1 used the word "access" to a motor vehicle how he  
2 determined the number of households that do or do  
3 not have access to a motor vehicle? Did you  
4 learn that when you read his report?

5 MS. WESTFALL: Objection. Compound.

6 THE WITNESS: I can't remember.

7 BY MR. KEISTER:

8 Q Okay. Do you know whether or not  
9 Gerald Webster, when he talked about access,  
10 related that to ownership of vehicles?

11 A I don't.

12 Q Okay. So, as we sit here today, you  
13 cannot opine as to the number of households that  
14 do not own a motor vehicle, yet may have access  
15 to a motor vehicle?

16 A I do not. I can't opine that.

17 Q Okay. In other words, if one person  
18 doesn't own a vehicle, but has a family member  
19 that allows him to use the vehicle, they would  
20 have access to a vehicle, correct?

21 A Yes.

22 Q But, if the standard that Gerald  
23 Webster is using is ownership, while they may  
24 deny ownership, that doesn't mean they wouldn't  
25 have access to it?

1 A That's correct.

2 Q Now in this particular report Gerald  
3 Webster talks about travel time to Department of  
4 Public Safety offices, correct?

5 A Yes. Yes, correct.

6 Q And he talks about various methods of  
7 going, be it personal vehicle, be it public  
8 transportation, correct?

9 A Yes.

10 Q And he comes out with a number or with  
11 numbers that he considers to be higher minority  
12 populations, correct?

13 A Yes.

14 Q Okay. Did you do anything to  
15 determine whether or not the travel times that  
16 Gerald Webster calculated are, in fact, travel  
17 times that would be considered out of the  
18 ordinary for people in these particular locations  
19 that he has listed in his report?

20 MS. WESTFALL: Objection. Unclear use  
21 of term "out of the ordinary".

22 BY MR. KEISTER:

23 Q Do you understand "out of the  
24 ordinary"?

25 A Could you give me a better --

1 Q Yes.

2 A -- a better definition of it?

3 Q All right. You understand that in  
4 Gerald Webster's report he comes to a  
5 determination as to an amount of time that it  
6 takes for people to travel to the DPS office,  
7 correct?

8 A Yes.

9 Q Be it by vehicle, be it by public  
10 transportation, or --

11 A Yes.

12 Q -- some other means?

13 And then, he makes a determination  
14 that he believes that minority persons have a  
15 greater travel time than Anglos, correct?

16 MS. WESTFALL: Objection. Misstates  
17 conclusions of Dr. Webster.

18 (Witness nods head in the  
19 affirmative.)

20 BY MR. KEISTER:

21 Q You need to try to say yes.

22 A Oh.

23 Q If yes is the answer. You were  
24 shaking your head yes, but we have to get it on  
25 the record.



1 A As best that I can recollect.

2 Q Okay. All right. Now my question is  
3 this, Gerald Webster came up with these numbers.  
4 My question to you is, did you do anything to  
5 determine whether or not the numbers that Gerald  
6 Webster came up with, and that he says are high  
7 for minority voters, whether or not those travel  
8 times in the State of Texas would actually be  
9 considered high travel times?

10 MS. WESTFALL: Objection. Compound.  
11 Vague.

12 THE WITNESS: Well, I guess the State  
13 of Texas, it would depend to some extent on the  
14 people that you asked in a random sample whether  
15 they would consider it to be an inordinate amount  
16 of time or not.

17 BY MR. KEISTER:

18 Q Exactly. And did you see anything in  
19 Gerald Webster's report where he compared the  
20 amount of time that people travel to work as  
21 compared to the amount of time it would take to  
22 travel to the DPS office?

23 A I can't remember that.

24 Q Okay. Did you see anywhere in his  
25 report where he compared the amount of time it

1 takes people to go shopping for groceries, and  
2 that type of thing, as compared to the amount of  
3 time it would take them to travel to the DPS  
4 office?

5 A I don't think so, but I'm not  
6 absolutely certain.

7 Q Okay. Do you recall seeing anything  
8 in Webster's report where he compared the amount  
9 of time it would take people to travel for  
10 entertainment in these locations compared to the  
11 amount of time it would take them to travel to  
12 the DPS office?

13 A I don't believe so.

14 Q Okay. Did you see any comparisons at  
15 all that Mr. Webster made with respect to the  
16 amount of time he asserts it will take these  
17 people in the report to travel to the DPS as  
18 compared to any other activity in their daily  
19 life?

20 MS. WESTFALL: Objection. Compound.  
21 Vague.

22 THE WITNESS: I don't believe so.

23 BY MR. KEISTER:

24 Q Okay. Wouldn't you agree that that's  
25 important in determining whether or not a travel

1 time to the DPS is a deterrent? Don't you think  
2 it's important to compare that travel time to  
3 what people ordinarily are used to making with  
4 respect to other aspects of their life for travel  
5 time?

6 MS. WESTFALL: Objection. Narrative,  
7 confusing, vague question. Calls for information  
8 outside this expert's expertise. And  
9 argumentative.

10 THE WITNESS: I'm trying to think  
11 about that.

12 (Pause.)

13 Suppose it were a very poor family and  
14 you needed to go somewhere to get groceries, and  
15 that it took a good deal of travel time to get  
16 there, and it took you less time to vote. But  
17 you don't place voting at quite the same priority  
18 level as you do feeding your family.

19 I'm not quite sure how that plays out  
20 with regard to your question.

21 BY MR. KEISTER:

22 Q Well, let me ask you this: let's say  
23 I travel every day 30 miles from my home to my  
24 office.

25 A Uh-hum.

1           Q       Okay? Now some people would gasp and  
2 think that's an extraordinary amount of time and  
3 distance. However, I do it every day; I don't.

4                   Likewise, the local DPS office closest  
5 to me, at least one I would go to, is also  
6 approximately 30 miles. Now would the fact that  
7 I have to travel 30 miles, would you consider  
8 that to be a deterrent if I wanted to an EIC, but  
9 the fact is I travel 30 miles every day to go to  
10 work?

11           A       Well, for you --

12                   MS. WESTFALL: Calls for --

13                   THE WITNESS: I'm sorry.

14                   For you, I would say the answer is,  
15 would be different from somebody who was  
16 extremely poor.

17                   BY MR. KEISTER:

18           Q       Yes. Well, I'm not going to get into  
19 my finances.

20                   (Laughter.)

21                   You had a shot.

22                   But my point is, don't you have to  
23 make a comparison to determine whether or not the  
24 time it takes somebody to get to the DPS is going  
25 to be a deterrent? Don't you have to compare

1 that time to what they are used to doing in their  
2 daily life?

3 A Perhaps --

4 MS. WESTFALL: Objection. Calls for  
5 speculation. Outside of this, Dr. Davidson's  
6 expertise.

7 THE WITNESS: Perhaps you do, but, as  
8 I think about it, I really do think that you have  
9 to include in this the relative importance in a  
10 person's own mind with regard to various places  
11 one is going and the amount of time and the  
12 amount of money it takes you to get there.

13 BY MR. KEISTER:

14 Q And did Mr. Webster do any analysis as  
15 to whether or not this would have to be a  
16 standalone trip for people traveling to the DPS?

17 MS. WESTFALL: Objection.

18 BY MR. KEISTER:

19 Q In other words, do people from time to  
20 time tend to do more than one errand at a time?

21 MS. WESTFALL: Objection. Compound.  
22 Vague. Confusing.

23 THE WITNESS: I don't believe so.

24 BY MR. KEISTER:

25 Q You don't believe people do?

1 A No, I don't believe he --

2 Q That he --

3 A -- looked at that issue.

4 Q Okay.

5 A But that's just my recollection.

6 Q Right. And, I mean, we can't take  
7 this analysis from the standpoint of people do  
8 not leave their house, correct?

9 MS. WESTFALL: Objection. Unclear.

10 THE WITNESS: I don't understand your  
11 question.

12 BY MR. KEISTER:

13 Q Well, I mean, it appears to me that  
14 some of the travel reports in this would indicate  
15 that people stay in their house 24 hours a day.  
16 And then, they have to make the effort to get off  
17 the couch, walk out the door, find some way, you  
18 know, to find some transportation, and then, go  
19 down to the DPS office. The fact is people, for  
20 the most part, do not stay in their house 24  
21 hours a day, correct?

22 MS. WESTFALL: Objection. Form.  
23 Argumentative. Lacks foundation. Assumes facts.

24 THE WITNESS: I guess I would want a  
25 lot more evidence about a group of people before

1 I agreed with you on that. People just have a  
2 lot of different burdens. They have a lot of  
3 different concerns. They have a lot of different  
4 priorities in terms of places they need to go.

5 BY MR. KEISTER:

6 Q Well, if a person works a block away  
7 from a DPS office, for instance, and the person  
8 has to take public transportation to work, it is  
9 not going to be as onerous for that person to  
10 walk a block after taking public transportation  
11 to work than it would be if they had to do a  
12 standalone trip the whole way to DPS, correct?

13 MS. WESTFALL: Objection. Assumes  
14 facts. Calls for speculation. Form.  
15 Foundation.

16 THE WITNESS: I suppose that's true.

17 BY MR. KEISTER:

18 Q And those type of determinations  
19 really have to be made on an individual basis,  
20 right? You have to consider the circumstances of  
21 each person as to what they are going to have to  
22 do, correct?

23 MS. WESTFALL: Objection. Vague.

24 THE WITNESS: In the best case, you  
25 would want to do that, given the amount of or

1 all that you have to carry out an investigation  
2 of this sort; you make use of the data that you  
3 can gather and lay it out. And if you had  
4 unlimited amounts of money, you could make it a  
5 much more defined range kind of report. But one  
6 has to go with what one has. And to my  
7 knowledge, this is the only report that takes a  
8 look at it in an empirical way. And so, you have  
9 to give some credence to that over mere  
10 speculation.

11 BY MR. KEISTER:

12 Q Okay. But isn't true that this is  
13 also speculation?

14 MS. WESTFALL: Objection. What is  
15 speculation?

16 BY MR. KEISTER:

17 Q Mr. Webster's report, to some extent,  
18 not completely, but to some extent.

19 MS. WESTFALL: Objection.

20 THE WITNESS: And what is the  
21 speculation now?

22 BY MR. KEISTER:

23 Q The travel times that these people  
24 have to make.

25 A Are you saying the travel times



1 themselves or the importance involved in going to  
2 one place rather than another?

3 **Q No, the travel times themselves.**

4 **A The travel time?**

5 **MS. WESTFALL:** Objection. Outside of  
6 Dr. Davidson's expertise. He is not a  
7 geographer.

8 **THE WITNESS:** I don't guess I know the  
9 answer to that question.

10 **BY MR. KEISTER:**

11 **Q Did you see anywhere in Gerald**  
12 **Webster's report where he made any factual**  
13 **determination with respect to a specific person**  
14 **or persons as opposed to his general**  
15 **determination of statistics?**

16 **A No.**

17 **Q I want to just try and work through**  
18 **your report, if you want to turn to the front**  
19 **page, and ask you some questions about it. And**  
20 **maybe we can wrap this up.**

21 **(Pounding noise.)**

22 **And most of this we have already**  
23 **talked about. So, I am going to kind of skim it.**

24 **A Sure.**

25 **MR. KEISTER:** And Liz with the

1 slamming papers, I know she's getting impatient.

2 (Laughter.)

3 MS. WESTFALL: No, no, I was cleaning.

4 I didn't mean to suggest impatience. I am very  
5 tidy.

6 BY MR. KEISTER:

7 Q All right. On page 3 of the report,  
8 on the very first sentence, full sentence, you  
9 state, "I have been invited to testify on voting  
10 issues before the Texas Senate meeting as a  
11 whole." When did you testify before the Texas  
12 Senate?

13 A It was 2009.

14 Q Okay. And do you recall what your  
15 testimony was in regard to?

16 A Well, it was in regard to whatever the  
17 photo ID bill was in 2009. I can't remember the  
18 number of it right offhand.

19 Q Okay, but do you remember more  
20 specifically what areas of expertise you were  
21 opining on or the subjects? I understand S.B.  
22 14, that's kind of broad, but --

23 A Right offhand, I'm having difficulty.

24 Q Okay. Well, let's talk about it a  
25 little bit and maybe it will come --

1 A Okay.

2 Q -- come back to you.

3 How did it happen that you came to  
4 testify before the Texas Senate? Did somebody  
5 invite or what occurred?

6 A I believe I was invited.

7 Q Okay. Do you recall who invited you?

8 A No, but I want to say it was a Senator  
9 or a staff member of a Senator.

10 Q Okay. Do you remember if it was a  
11 Senator who was supportive of that particular  
12 bill or been opposed to that particular bill?

13 A I think one who was opposed.

14 Q Okay. And I assume, then, you took --  
15 or I shouldn't assume.

16 (Laughter.)

17 Did you take a position opposed to the  
18 passage of the bill?

19 A Yes.

20 Q Okay. And do you recall what  
21 arguments you gave to the Senate as to why they  
22 should not pass the bill?

23 A They were somewhat the same arguments  
24 that I make in my report here.

25 Q Okay. Okay.

1           A           That it would have more of an impact  
2 on lower-income people and minorities, in  
3 particular. That's my recollection. And it has  
4 been a while.

5           **Q           Okay. Yes, it has.**

6                       **Did you produce a copy of your**  
7 **testimony in front of the Senate?**

8           A           You say, did I produce?

9           **Q           To us, in response to --**

10                      MS. WESTFALL: No, but it's part of  
11 the public record.

12                      MR. KEISTER: Okay. Okay.

13                      **BY MR. KEISTER:**

14                      MR. KEISTER: Did you --

15                      MS. WESTFALL: I don't believe we  
16 have.

17                      MR. KEISTER: Okay.

18                      MS. WESTFALL: I can't confirm that  
19 100 percent, but it is part of the public record  
20 that has been produced in this litigation since  
21 2012.

22                      MR. KEISTER: Okay. I'm not sure,  
23 either. That's why I'm asking.

24                      **BY MR. KEISTER:**

25           **Q           Did you review your testimony before**

1 **you prepared this report?**

2 A I'm pretty sure that I did.

3 **Q Okay.**

4 A That would have been -- yes, okay.

5 Yes.

6 **Q Yes. Well, the next sentence says,**  
7 **"as well as before the U.S. Senate and House**  
8 **committees". Now what testimony -- well, let me**  
9 **ask you first, when did you testify before the**  
10 **United States Senate with respect to photo ID**  
11 **litigation?**

12 MS. WESTFALL: Objection. Compound.

13 THE WITNESS: It was with regard to  
14 the renewal of Section 5 of the -- renewal of the  
15 Voting Rights Act in 2005, I think is when I was  
16 there.

17 As I mention in my report, I was the  
18 primary author of a research report that was paid  
19 for by the Lawyers' Committee for Civil Rights  
20 Under Law. I was on a 10-member citizens'  
21 commission which was formed by the Lawyers'  
22 Committee to take testimony around the country  
23 with regard to voting problems.

24 And then, on the basis of that  
25 testimony and other research that was conducted

1 by me and by staff members of the Lawyers'  
2 Committee, a report and, then, a summary report  
3 were published and presented at the time that the  
4 Senate hearings were being held on the subject.

5 And it was in that capacity that I  
6 testified before, I think it was Senator Leahy's  
7 committee in the Senate.

8 **BY MR. KEISTER:**

9 **Q In 2005?**

10 A I believe it was 2005, yes.

11 **Q Okay. Now what type of voting issues**  
12 **were you exploring with the committee? What was**  
13 **the Lawyers' committee you mentioned?**

14 A The Lawyers' Committee for Civil  
15 Rights Under Law.

16 **Q Right, right. What was the issues**  
17 **that you were exploring given that time period?**

18 A Looking at any impediments to voting  
19 with regard to minority citizens that would have  
20 been covered under the Voting Rights Act.

21 **Q Okay. Did any of that in any way**  
22 **involve the issue of photo identification?**

23 A I'm blocking on that. My tendency,  
24 off the top of my head, is to say no, but I'm not  
25 absolutely certain that that's the case.

1           **Q       Because the Carter-Baker report would**  
2 **have been published during that time period,**  
3 **correct?**

4           A       I think it may have been published  
5 before. I'm not sure. But about the same time  
6 certainly. I think Carter-Baker came out in  
7 2005, didn't it, or -- I want to say either '04  
8 or '05.

9           **Q       Okay. Have you ever taken a position**  
10 **in support of some type of photo identification**  
11 **for voting purposes?**

12          A       I don't believe so.

13          **Q       Okay. Have you ever thought to**  
14 **yourself it would be a good idea in some**  
15 **circumstances?**

16          A       Well, in some circumstances, but I'm  
17 not, I mean, I'm not sure whether you're talking  
18 about going to the polls or not. But I'm just --  
19 in the whole world of voting and registration,  
20 and so forth, and the kinds of problems that -- I  
21 just -- I hadn't -- no, I don't think I've been  
22 involved in that.

23          **Q       Okay. Well, for instance, did you**  
24 **read the Carter-Baker report?**

25          A       (Witness laughs.) I did back when it

1 came out. Don't ask me any questions about it.

2 (Laughter.)

3 **Q You recall there was a discussion in**  
4 **that report concerning photo identification**  
5 **bills?**

6 A Yes, yes.

7 **Q During that time period did you think**  
8 **that made sense, at least what was in the**  
9 **original Carter-Baker report?**

10 A Well, I had some serious difficulties  
11 with it, and, in particular, because of a very  
12 sharp dissent by one member of the committee,  
13 Spencer Overton, claiming that the requirement of  
14 a photo ID had real problems connected with it of  
15 the sort that have been discussed in Senate Bill  
16 11.

17 And then, there were also people who  
18 more recently have pointed out with regard to  
19 that report that it is requiring, along with its  
20 urging a requirement of a photo ID, that there be  
21 a certain number of years after the law was  
22 passed where there would be a good deal of effort  
23 made on the part of the government to inform  
24 people about the specifics of getting a photo ID  
25 and what that would consist of, and making sure



1 that they were able to get it without difficulty.

2 Q Okay. You mentioned there was one  
3 member of the Carter-Baker committee, or whatever  
4 you call it, commission I guess --

5 A Commission.

6 Q -- that issued the dissenting -- I  
7 don't know if it's an opinion, but a non-legal  
8 dissenting opinion with respect to that report.

9 (Laughter.)

10 How many members were on that  
11 commission? Do you remember?

12 A I want to say nine, but that's just a  
13 rough guess.

14 Q Okay. And out of that nine, there was  
15 only one that you recall doing a dissenting  
16 statement on this --

17 A Yes, yes.

18 Q Okay. All right. And then, it also  
19 references House committees. Was that the same  
20 time period you were testifying, 2005?

21 A That was a little, no, that was a  
22 little while later. And it also had to do with  
23 voting, but I'm trying -- oh, it was a committee  
24 that Senator Feinstein was heading up, or a  
25 subcommittee.

1 I can't remember the exact focus of  
2 it, but it had to do with voting problems, voting  
3 difficulties --

4 Q Okay.

5 A -- that I think, in particular,  
6 minorities would face.

7 Q Any issues related to photo ID that  
8 you recall in that, in those committee hearings?

9 A My tendency is to say no.

10 Q Okay. Then, I'm going to take your  
11 tendency at this point.

12 (Laughter.)

13 A Okay.

14 Q And in that sentence you say, "In the  
15 course of my career, I have testified as an  
16 expert or served as a consultant in over 30  
17 lawsuits in nine states, mostly on behalf of  
18 plaintiffs in voting rights cases. In this case,  
19 I'm being compensated for my work, my standard  
20 rate at \$350 per hour."

21 Now you said in mostly Voting Rights  
22 Act cases. Are there any other type cases that  
23 you served as an expert witness in?

24 A There was an African-American woman in  
25 a death penalty case a number of years ago, and

1 she was the alleged perpetrator. And I gave some  
2 kind of information. It was very minor. I don't  
3 think I even appeared in the courtroom. I may  
4 just have given this to a lawyer or something.

5 **Q Okay.**

6 A Let me think a minute.

7 (Pause.)

8 Repeat the question one more time.

9 **Q You say here that you've served as a**  
10 **consultant in over 30 lawsuits. And you say most**  
11 **of them were Voting Rights Act cases.**

12 A Well, one had to do with a situation  
13 in a little town north of Houston where, when  
14 desegregation of a school system was required,  
15 all of the Black teachers were fired. And I gave  
16 some kind of testimony in that case, but I can't  
17 -- on behalf of the teachers -- but I can't  
18 remember what the nature of the testimony was.

19 **Q Yes. It might have been an employment**  
20 **discrimination case or something of that nature?**

21 A Yes, I think that's what it was.

22 **Q Okay.**

23 A I was probably testifying as to the  
24 racial atmosphere of the city --

25 **Q Okay.**

1 A -- and the area in east Texas.

2 Q Okay. Any others that you can  
3 remember that weren't Voting Rights Act --

4 A Could I just --

5 Q Sure, if you want to.

6 A My vitae is here somewhere.

7 Q I think it would be with Exhibit 1, I  
8 believe.

9 MS. WESTFALL: With your indulgence,  
10 I have a standalone.

11 THE WITNESS: Oh, thank you very much.

12 (Witness looks at document.)

13 This is going to take a minute here.

14 Okay. Here we go.

15 BY MR. KEISTER:

16 Q And you can just glance quickly,  
17 Doctor. I'm not going to --

18 A Okay.

19 Q I'm not going to pounce on you too  
20 much on this one.

21 A Consultant to defendants in their  
22 efforts to demonstrate that the jury selection  
23 procedure in Florida was unfair.

24 Q Okay.

25 A Consultant to plaintiffs in a class

1 action employment discrimination suit.

2 Consultant -- oh, I mentioned this --  
3 to Defendant Dee Dee Martin indicted on capital  
4 murder charges who claimed the jury selection  
5 system discriminated against Blacks.

6 Q Okay.

7 A I think that's basically it.

8 Q Okay. So, five or six? I didn't keep  
9 an exact count, but --

10 A Somewhere in there --

11 Q Okay.

12 A -- as opposed to 20 or 30-some-odd  
13 others.

14 Q Okay. Yes. So, somewhere in the  
15 neighborhood of 25 that you've consulted on have  
16 been Voting Rights Act cases?

17 A I think so.

18 Q Have there been any particular clients  
19 that have dominated that number? Any particular  
20 clients you have worked for more than other  
21 clients, out of the 25 Voting Rights Act cases?

22 A When you say "clients," you mean  
23 lawyers or do you mean --

24 Q It can be if --

25 A -- the parties themselves?

1           **Q**       It can be lawyers or parties,  
2       **whichever way is easiest to break it down. For**  
3       **instance, the Department of Justice, I don't know**  
4       **how many times you've worked for them, but --**

5           **A**       Well, I don't remember, either. Have  
6       I worked for the Department of Justice?

7                   (Laughter.)

8           **Q**       I thought you said you had, but that  
9       **was early this morning.**

10          **A**       It's mostly been just individuals or  
11       class action.

12                   Once more the question?

13          **Q**       Okay. And I was just asking, out of  
14       **that 25 or so Voting Rights Act cases that you've**  
15       **worked on, has there been one client that's been**  
16       **your predominant client or there's various**  
17       **clients through the years?**

18          **A**       No, it's been just a wide variety of  
19       clients. I've worked with one lawyer on probably  
20       three or four cases.

21          **Q**       And who would that lawyer be?

22          **A**       Oh, boy. That would be, I think his  
23       name is -- oh, boy, I just was in email  
24       communication with him a few days ago for the  
25       first time in about 15 years.

1 MS. WESTFALL: Take your time, Dr.  
2 Davidson. If you want to look at your CV to  
3 refresh --

4 MR. KEISTER: Yes.

5 THE WITNESS: It's not going to be in  
6 my CV here.

7 MS. WESTFALL: But it may refresh.

8 THE WITNESS: I want to say Bill  
9 Garrett, I think is his name. Bill Garrett.

10 MR. KEISTER: Okay.

11 THE WITNESS: Now retired, as have  
12 most of my clients.

13 (Laughter.)

14 **BY MR. KEISTER:**

15 **Q That's a long time to be doing it.**  
16 **You started doing this when? What year did**  
17 **you --**

18 **A** I think in the late sixties.

19 (Laughter.)

20 MR. KEISTER: All right. Well, let's  
21 see if we can keep moving here. All right.

22 MS. WESTFALL: Counsel, if there's a  
23 convenient time -- I don't know how much longer  
24 you have -- do you want to take a break?

25 MR. KEISTER: This is a convenient

1 time now.

2 MS. WESTFALL: Yes. Great. Super.

3 Thank you.

4 (Whereupon, the foregoing matter went  
5 off the record at 1:56 p.m. and went back on the  
6 record at 2:06 p.m.)

7 BY MR. KEISTER:

8 Q Doctor, just back up just for a moment  
9 on Page 3 when you were talking about over 30  
10 lawsuits that you've had in your career and you  
11 mentioned in nine states, can you tell us which  
12 states those are?

13 A I would have to just look here at my  
14 CV. I'm going to just read them off here.

15 Q Yeah.

16 A Texas -

17 Q Okay.

18 A - Florida, Texas, Texas, Texas, Texas,  
19 Texas, Texas, Texas, Texas, Alabama, Alabama,  
20 Texas, Texas, Texas, Virginia, Mississippi,  
21 Alabama, Alabama, Florida, Alabama, Texas,  
22 Alabama, Mississippi, Illinois, Mississippi,  
23 Pennsylvania, California, Alabama, Texas, Texas,  
24 Texas.

25 Q Okay. I counted ten, but my fingers



1 are slow.

2 MS. WESTFALL: You're not testifying  
3 now.

4 DR. DAVIDSON: Oh, no. New Jersey is  
5 the last one, not Texas.

6 MR. KEISTER: Okay.

7 DR. DAVIDSON: Okay.

8 BY MR. KEISTER:

9 Q Regardless of the count, we've got to  
10 say so it's on the record. All right. And  
11 before you put it up, let me ask you this, with  
12 respect to the lawsuits in Texas, how many of  
13 those lawsuits involved the actual State of Texas  
14 as opposed to a local jurisdiction? If you want  
15 to just read the ones that are against the State  
16 of Texas itself.

17 A Okay. I'm not sure about this one.  
18 It's League of United Latin American Citizens v.  
19 Clements. U.S. District Court, Western District  
20 of Texas consulted the plaintiffs alleging vote  
21 dilution in multimember district state judicial  
22 elections.

23 Q What year was that?

24 A That was 1988 and '89.

25 Q So that would have been -

1           A           I'm just - That could have been  
2 statewide, I'm just not sure. And then the next  
3 one, Vera v. Richards, expert for State of Texas,  
4 which was alleged to have violated the U.S.  
5 Constitution in creating majority minority  
6 districts in the 1990s round of Congressional  
7 redistricting, and that's for sure.

8           Q           Okay, so you worked on behalf of the  
9 State in that one? Is that -

10          A           I believe I - Well, come to think of  
11 it - yeah, expert for the State, yes.

12          Q           Okay.

13          A           Yeah.

14          Q           And that was in what year?

15          A           1994.

16          Q           Okay. And so, before you close up let  
17 me just confirm, I think, if my memory is  
18 correct, that you only - out of all the Texas  
19 cases you mentioned, there were only two that  
20 involved the actual state?

21          A           At most, two.

22          Q           Okay. And both of those dealt with  
23 redistricting?

24          A           Yes.

25          Q           Okay. And both of those would have

1 been, if my memory is correct, would have been  
2 during the time period that the Democrats were  
3 still in control of the state, correct?

4 A For Vera v. Richards, yes, and then -  
5 yeah, yes.

6 Q Okay. Okay, thank you.

7 A Okay.

8 Q I think we're done with your CV.

9 A Okay.

10 Q All right. So back to your report on  
11 Page 3 under executive summary, and maybe we can  
12 knock some of this stuff out in the executive  
13 summary instead of going back through the history  
14 because I think we've covered it.

15 A Okay.

16 Q You state, "The history of Texas  
17 politics from statehood to 1965 is one of  
18 perpetual discrimination, targeting and affecting  
19 the state's two largest minority ethnic groups,  
20 Latinos and blacks." Did I read that correctly?

21 A Yes.

22 Q And you would agree that during that  
23 time period that you set forth here that the  
24 State of Texas was controlled by the Democratic  
25 Party?

1 A That is correct.

2 Q Okay. Now, and then the next sentence  
3 you mention, "the poll tax, the white primary,  
4 laws restricting voter registration to a brief  
5 time period, action, brutality and lethal  
6 violence, efforts to intimidate minorities at the  
7 polls, misinformation given to minorities about  
8 the election process, and minority voting  
9 deletion through racial gerrymandering, and the  
10 imposition of at large elections inter alia have  
11 depressed the black and Latino vote throughout  
12 Texas's existence as a state." Now, with respect  
13 to the poll tax, I think later on in the reports  
14 you're going to talk about that, correct?

15 A That's correct.

16 Q And I think you point out that that  
17 was instituted in 1902, correct?

18 A I believe that's right.

19 Q All right. And at the time that was  
20 instituted, Texas was under the control of the  
21 Democratic Party, correct?

22 A Yes.

23 Q And up until the day it was ruled  
24 unconstitutional by the U.S. Supreme Court, Texas  
25 was under the control of the Democratic Party,

1 correct?

2 A Yes.

3 MR. KEISTER: Okay.

4 MS. WESTFALL: Wait for him to ask him  
5 questions, otherwise there will be problems with  
6 the transcript.

7 DR. DAVIDSON: I'm sorry.

8 MR. KEISTER: I'll try to speak  
9 quickly now, but you need to let me pause.

10 BY MR. KEISTER:

11 Q And then the next one you talk about  
12 is the white primary. And the white primary  
13 basically allowed no one to vote except white  
14 people in the Democratic primaries, correct?

15 A Correct.

16 Q And that was an official law passed by  
17 the State of Texas, correct?

18 A That's correct.

19 Q And during that time period when that  
20 law was passed, Texas was solidly controlled by  
21 the Democratic Party, correct?

22 A That's correct.

23 Q Okay. And then there came a time  
24 period when the white primary was outlawed or  
25 ruled unconstitutional, correct?

1 A That's correct.

2 Q And that's when the Democrats began  
3 implementing restrictive registration, voter  
4 registration time periods, correct?

5 A Yes.

6 Q Okay. And that occurred during the  
7 time when Texas was solidly controlled by the  
8 Democratic Party, correct?

9 A Yes, sir.

10 Q Okay. Under Paragraph 5, you state,  
11 "The claims of lawmakers and top state government  
12 officials, almost all of whom were white, Voter  
13 and SB 14, and its predecessors, in 2005, 2007,  
14 and 2009, refers that there was significant voter  
15 fraud in Texas, of the kind a photo ID law would  
16 prevent."

17 With respect to significant vote fraud  
18 in Texas, as we discussed earlier, while it may  
19 not be a significant number, do you - with  
20 respect to in-person voter fraud, the fact is  
21 there had been significant voter fraud in Texas,  
22 correct?

23 MS. WESTFALL: Objection, compound,  
24 vague, assumes facts.

25 DR. DAVIDSON: It says - What I say

1 here is the claims of lawmakers and top state  
2 government officials were that there was  
3 significant vote fraud in Texas of the kind a  
4 photo ID law would prevent.

5 BY MR. KEISTER:

6 Q Okay. And my question is, regardless  
7 of whether or not a photo ID law would prevent  
8 the fraud, the fact is during the time photo ID  
9 was being debated in the Texas legislature, there  
10 was significant voter fraud in the state,  
11 correct?

12 MS. WESTFALL: Objection,  
13 mischaracterizes his testimony.

14 DR. DAVIDSON: I'm not saying that.

15 BY MR. KEISTER:

16 Q I didn't ask you if you were saying  
17 that. I'm asking you - I'm asking you - I'm just  
18 simply asking you that during the time that photo  
19 voter ID was being debated in the Texas  
20 legislature, putting aside categories, and  
21 putting aside in-person voter fraud, there was  
22 voter fraud in the State of Texas, correct, of  
23 other types, be it ballot - mail-in ballot fraud,  
24 be it registration issues?

25 A Yes.

1 MS. WESTFALL: Objection.

2 MR. KEISTER: Okay.

3 MS. WESTFALL: Outside the scope of  
4 his expertise and his report.

5 BY MR. KEISTER:

6 Q And then the second part, you state,  
7 "And second, when the first claim was shown to be  
8 highly devious, that such a law would reassure  
9 the public that election results were correct."  
10 Isn't it a fact, Doctor, that since there is and  
11 was voter fraud in the State of Texas, that any  
12 efforts by the legislature to reduce any type of  
13 voter fraud would help to assure confidence of  
14 the citizens of Texas with respect to the  
15 elections?

16 MS. WESTFALL: Objection, calls for  
17 speculation, compound, form, foundation.

18 DR. DAVIDSON: I just - I really don't  
19 - I really don't know about that.

20 BY MR. KEISTER:

21 Q Well, doesn't it give the public more  
22 confidence if they see the legislature trying to  
23 do something about some voter fraud, than if they  
24 don't see anything at all?

25 MS. WESTFALL: Objection, calls for



1 speculation.

2 DR. DAVIDSON: I suppose if it would  
3 deal with, you know, the kind of vote fraud that  
4 the state was going after. If it was a kind that  
5 virtually didn't exist, it might not give people  
6 too much - too much confidence.

7 BY MR. KEISTER:

8 Q Okay. But I think as you state going  
9 on through the report, there was overwhelming  
10 support in the State of Texas for the passage of  
11 a photo ID law, correct?

12 MS. WESTFALL: Objection, misstates  
13 the report, assumes facts.

14 DR. DAVIDSON: No, there was not - I  
15 don't believe I say anywhere in my report that  
16 there was overwhelming support for that.

17 BY MR. KEISTER:

18 Q Overwhelming, maybe I'm strong. There  
19 was majority support among the citizens of Texas  
20 for photo ID -

21 MS. WESTFALL: Objection -

22 BY MR. KEISTER:

23 Q - legislation?

24 A I certainly don't -

25 MS. WESTFALL: Misstates.

1 DR. DAVIDSON: - remember having said  
2 that.

3 BY MR. KEISTER:

4 Q Okay. Do you recall some of the polls  
5 that you referenced as we go through here  
6 forward?

7 MS. WESTFALL: Objection. If you want  
8 to point him to certain paragraphs of the report,  
9 otherwise, assumes facts.

10 DR. DAVIDSON: I don't recall. I  
11 don't -

12 BY MR. KEISTER:

13 Q Okay. And then you say, "Opponents  
14 argue that the law was not necessary given the  
15 strangely small amount of fraud of the kind that  
16 the law would prevent," correct?

17 A That's correct.

18 Q So according to your statement, the  
19 opponents were not saying there was no voter  
20 fraud of the kind that the law would prevent.  
21 According to your statement, they were saying  
22 there was a small amount?

23 MS. WESTFALL: Objection.

24 MR. KEISTER: And then you need to  
25 read that paragraph -

1 DR. DAVIDSON: Well, let me -

2 MR. KEISTER: Okay.

3 DR. DAVIDSON: Which paragraph is that  
4 now?

5 MR. KEISTER: That's - I was reading  
6 the last sentence under Paragraph 5 -

7 DR. DAVIDSON: Okay.

8 MR. KEISTER: - on Page 4.

9 DR. DAVIDSON: "Opponents argued that  
10 the law was not necessary given the extremely  
11 small amount of fraud of the kind the law would  
12 prevent, that is voter impersonation at the  
13 polls. That despite the political debate about  
14 suspected fraud, there was little evidence of  
15 public concern about the integrity of the  
16 electoral process in Texas.

17 The likely effect of such a law would  
18 be to place a heavier burden on blacks and  
19 Hispanics that do not have one of the required  
20 photo IDs compared with Anglos given that the two  
21 minority groups are disproportionately poor. And  
22 that the goal of a strict photo ID requirement  
23 was to skew elections in favor of Anglos who vote  
24 overwhelmingly Republican."

25 I don't - I guess either I'm

1 mishearing what you're saying, or I don't see  
2 where I've written exactly what you're  
3 attributing to me.

4 BY MR. KEISTER:

5 Q Okay. Well, let me just read to you  
6 again the part I'm concentrating on, and this is  
7 the last sentence on Page 4. "Opponents argue  
8 that the law was not necessary given the  
9 extremely small amount of fraud of the kind the  
10 law would prevent, i.e., voter impersonation at  
11 the polls." Now, you did not say, or the  
12 opponents did not say that there was no fraud of  
13 the kind that the law would prevent, correct?

14 A I think that's correct.

15 Q It said there was an extremely small  
16 amount.

17 A Yes.

18 Q Okay. Page 5, go down to Paragraph 6,  
19 the last sentence of Paragraph 6.

20 A Just one moment, please.

21 Q Oh, I'm sorry.

22 A Okay.

23 Q You state, "Looming over the  
24 legislative debates over voter ID laws however,  
25 was the change in the demography of Texas."

1 **There, are you referring to the increase in the**  
2 **Hispanic population in Texas?**

3 A Yes.

4 Q Okay. And Texas having become a  
5 minority majority state?

6 A Would you repeat the question? Did  
7 you say it had or had not?

8 Q Had, according to the 2000 census.  
9 2000 or - yeah, 2000 census, had become a  
10 minority majority state.

11 A No, I didn't say it according to the  
12 2000 census. I don't believe I did.

13 Q Okay. Well, what's your support for  
14 stating that Texas has become a minority majority  
15 state?

16 A Well, I do say that at some point, but  
17 I didn't say it right at -

18 Q Oh, I didn't mean right at that point.  
19 I'm sorry.

20 A Oh, okay. Okay, repeat the question,  
21 please.

22 Q All right. All right, you state,  
23 "Looming over the legislative debates over voter  
24 ID laws however, was the change in the demography  
25 of Texas," correct?

1 A Right.

2 Q In there, you're referring to the  
3 increase of the Hispanic population in Texas?

4 A That's correct.

5 Q All right. And your support for the  
6 statement, or the statement that the Hispanic  
7 population is increasing was the 2000 census,  
8 correct?

9 A No, it was the - it was information  
10 that came from the census in 2005.

11 Q Okay, all right. Since the year 2000,  
12 how many statewide elections in Texas have  
13 Republicans lost?

14 A I don't believe they've lost any.

15 Q Okay. And when you talk about, or  
16 when the census, or people interpreting the  
17 census talk about Texas becoming a minority  
18 majority state, does that take into consideration  
19 the number of citizen voting age population?

20 A It takes it into account. I don't  
21 think it's limited -

22 Q Okay.

23 A - to them.

24 Q With respect to the citizen of voting  
25 age population, would Texas be a minority

1 majority state with respect to that limited  
2 population?

3 A I'm not sure that it would have quite  
4 reached that. Let me just double-check on this.  
5 Right, this is just referring to the population  
6 in general.

7 Q Okay. And if you haven't done that  
8 calculation, you can just tell me, but have you  
9 tried to make a determination with respect to the  
10 citizen voting age population as to whether or  
11 not Texas was a minority majority state in that  
12 population during the time period Texas was  
13 debating photo voter ID?

14 MS. WESTFALL: Objection, confusing.

15 DR. DAVIDSON: I don't believe so.

16 MR. KEISTER: Okay.

17 BY MR. KEISTER:

18 Q Wouldn't that be an important number  
19 to know if you're going to make an argument that  
20 Texas legislature was motivated by the minority  
21 majority status, to know whether or not the  
22 voting age population was minority majority?

23 A No.

24 Q Why not?

25 A First of all, this is happening fast.

1 This changed from 2000 when the state's majority  
2 population was 52 percent Anglo to 2005 when it  
3 was - when it had dropped considerably, and there  
4 was a great deal of discussion at that point.

5 A point made widely known to political  
6 insiders by the former head of the U.S. Census  
7 Bureau, Steve Murdock, that the population, the  
8 Hispanic population, given current trends, would  
9 be rising even at a faster rate given the  
10 increasing number of children that they were  
11 reproducing, and especially in comparison with  
12 the percentage of children that were being  
13 reproduced by Anglos.

14 So, very quickly, in a very short  
15 period of time, a good deal of information came  
16 to the fore which made it clear to the policy  
17 makers, I think, that this expansion was  
18 happening in a hurry, and it was going to be a  
19 major expansion.

20 **Q But you would agree that during the**  
21 **time period that the voter ID was being debated,**  
22 **the Republicans were, in fact, increasing their**  
23 **electoral victories in the State of Texas,**  
24 **correct?**

25 A They were increasing their electoral



1 victories?

2 Q Right. And even -

3 A Wait a minute. That's a question.

4 I'm not -

5 Q I'm sorry, I thought you were -

6 A No, no, no, I was asking exactly what  
7 you meant by that.

8 Q Well, I mean, we didn't see suddenly  
9 a switch and Democrats suddenly starting to win  
10 the statewide races, or even start suddenly  
11 winning, you know, the majority of Congressional  
12 seats or that type of thing, correct?

13 A That's correct.

14 Q That's what I mean.

15 A Okay.

16 Q So it wasn't a panic point where you  
17 would think, you know, somebody in the Republican  
18 Party said, "Oh, no, look, we just lost, you  
19 know, ten seats in the last election, and that's  
20 because the Hispanic population has increased,"  
21 right?

22 A No.

23 Q Okay. So, what do you see as a point  
24 during the debate in which there became a panic  
25 amongst the Republicans in the legislature and

1 statewide office to suddenly say, "We've got to  
2 do something to reduce the number of blacks and  
3 Hispanics voting in this state"?

4 A I don't think that anybody could point  
5 to a point. One thing that I don't mention in  
6 this report at all is that there was a  
7 significant, and I'm using that in a  
8 nonstatistical sense here, there was a  
9 significant increase in the Latino population  
10 according to the Census between 1990 and 2000.

11 I mean, that was clearly obvious, and  
12 people were aware of that fact. And then, what  
13 made it much more dramatic was in 2005, the same  
14 year that the bill was - the predecessor of this  
15 bill was first considered, was that the Census  
16 comes out with the fact that we are now a  
17 minority majority state.

18 And the Republican Comptroller makes  
19 this fact well known on her website at the same  
20 time the newspaper accounts are making it quite  
21 clear that there is a change a coming, and it's  
22 probably going to be a big change, and it's  
23 probably going to be very soon. In fact, it's  
24 already underway.

25 Q Well, but in fact, the only thing

1 that's been underway is that Republicans have  
2 continued to win statewide office and continued  
3 to control the legislature, correct?

4 MS. WESTFALL: Objection, asked and  
5 answered.

6 DR. DAVIDSON: I would want to look at  
7 a lot of different venues. I'm not sure exactly  
8 what is going on in all the states, counties, and  
9 other political venues. But, it's certainly true  
10 that the Republicans remain in control at this  
11 point.

12 MR. KEISTER: Okay.

13 BY MR. KEISTER:

14 Q Now, who was the Comptroller that  
15 you're referring to that publicized on the  
16 website? Was that Carole Keeton Strayhorn?

17 A No, this is a, I'm pretty sure, a  
18 Latino. I want to say a Latina. Or is it an  
19 Indian-American? Not a Native American, but a -  
20 it's not an Anglo person. It's a woman who is a  
21 non-Anglo woman, and I'm just blanking on her  
22 name.

23 Q I'm blanking too on 2005.

24 (Laughter)

25 Q Whoever the Comptroller was at that

1 **time, what was it that was said on the website?**

2 A She just repeated the Census Bureau's  
3 findings that the state is now a minority  
4 majority state.

5 Q Okay. And was that like an  
6 informational part of the website just talking  
7 about the state?

8 A Mm-hmm.

9 Q Okay. It wasn't a call to arms to the  
10 Republican party?

11 A Not in a straightforward way.

12 (Laughter)

13 MR. KEISTER: Okay. All right.

14 MS. WESTFALL: Can we go off the  
15 record for one second?

16 (Whereupon, the above-entitled matter  
17 went off the record at 2:35 p.m. and resumed at  
18 2:36 p.m.)

19 BY MR. KEISTER:

20 Q The next several pages of the report  
21 deal with the various attempts to pass voter  
22 legislation from 2005 up through 2011 when it  
23 ultimately passed, correct?

24 A That's correct.

25 Q Okay. And without going through each

1 one in detail, have you in your mind sufficiently  
2 set out in your report the details of those  
3 issues or those events that you intend to testify  
4 about in the trial of this case?

5 A Yes, sir.

6 Q Okay. Do you agree that it's better  
7 to have a photo ID in Texas in order to  
8 participate in daily activities of life than it  
9 is not to have a photo ID?

10 MS. WESTFALL: Objection. Calls for  
11 speculation. Relevance. Vague.

12 THE WITNESS: I really haven't thought  
13 too much about that.

14 BY MR. KEISTER:

15 Q Okay. Do you find that you have more  
16 access to more places in today's society if you  
17 have a photo ID?

18 MS. WESTFALL: Objection. Vague.

19 THE WITNESS: Well, given the fact  
20 that a lot of places do require an ID, it  
21 certainly makes it easier for those people who  
22 have IDs to access it, yes.

23 BY MR. KEISTER:

24 Q I mean, just on a daily occurrence, I  
25 mean, the bulk of us show an ID maybe daily,

1 **correct?**

2 MS. WESTFALL: Objection. Calls for  
3 speculation.

4 THE WITNESS: I think a lot of people  
5 do certainly.

6 **BY MR. KEISTER:**

7 **Q And those who don't have IDs or who**  
8 **don't want to show IDs find themselves**  
9 **confronting difficulties functioning in today's**  
10 **society, do they not?**

11 MS. WESTFALL: Objection. Confusing.  
12 Calls for speculation. Assumes facts.  
13 Foundation.

14 THE WITNESS: Some of them undoubtedly  
15 do, yes.

16 **BY MR. KEISTER:**

17 **Q For instance opening a bank account is**  
18 **difficult without some type of photo ID, correct?**

19 MS. WESTFALL: Objection. Calls for  
20 speculation.

21 THE WITNESS: I think that's probably  
22 the case.

23 **BY MR. KEISTER:**

24 **Q Boarding an aircraft is difficult --**  
25 **at least through an airport is difficult without**

1 **having some type of photo ID, correct?**

2 MS. WESTFALL: Objection. Assumes  
3 facts.

4 THE WITNESS: I think that's the case.

5 **BY MR. KEISTER:**

6 **Q Getting medical care and other daily**  
7 **necessities of life often require a photo ID,**  
8 **correct?**

9 MS. WESTFALL: Objection. Calls for  
10 speculation. Relevance.

11 THE WITNESS: I think there's some  
12 truth to that.

13 **BY MR. KEISTER:**

14 **Q Isn't there some benefit to**  
15 **encouraging people, the small number of people in**  
16 **the state, or that state, that don't have photo**  
17 **ID -- isn't there some benefit to encouraging**  
18 **those people to obtain a photo ID?**

19 MS. WESTFALL: Objection.

20 **BY MR. KEISTER:**

21 **Q Voting aside for a moment, just for**  
22 **the benefit of their daily life and improvement**  
23 **of their social status and daily life?**

24 MS. WESTFALL: Objection. Relevance.  
25 Outside the scope of this expert's expertise.

1 THE WITNESS: I would assume that all  
2 things considered, yes.

3 BY MR. KEISTER:

4 Q And certainly considering the small  
5 number of people that have been identified as  
6 possibly not having photo ID, isn't there that  
7 ways most people could be reached out to and  
8 encouraged to obtain some type of photo ID for  
9 their own benefit to improve their lot in life?

10 MS. WESTFALL: Objection. Mis-  
11 characterizes the evidence. Calls for  
12 speculation. Compound. Vague.

13 THE WITNESS: Would you repeat that  
14 question, please?

15 BY MR. KEISTER:

16 Q Maybe.

17 (Laughter)

18 BY MR. KEISTER:

19 Q Wouldn't you agree that considering  
20 the small number of people that may not have a  
21 photo ID that there could be a benefit in society  
22 trying to reach out to those people and trying to  
23 encourage those people to obtain a photo ID for  
24 their own benefit in their own life?

25 MS. WESTFALL: Objection. Relevance



1 and mis-characterizes evidence. Calls for  
2 speculation. Not relevant.

3 THE WITNESS: Well, I -- I -- I would  
4 speculate that it -- it would be worth -- well,  
5 depending exactly on what you mean by -- by -- by  
6 reaching out, you know, and the costs of it and  
7 so forth and who would be paying for that and so  
8 forth.

9 BY MR. KEISTER:

10 Q In your reviews of this case have you  
11 found any of the parties in this case other than  
12 the State of Texas reaching out to people in  
13 Texas that do not have a photo ID and encouraging  
14 them to obtain one?

15 MS. WESTFALL: Objection. Unclear.

16 THE WITNESS: I'm -- I'm just not  
17 aware.

18 BY MR. KEISTER:

19 Q Okay. And in fact on page 13 of your  
20 report, four sentences above paragraph 17 you  
21 state, "The bills for comments also argued from  
22 2005 through the 2011 session that so many  
23 everyday events, whether cashing checks or  
24 traveling by plane or renting a movie at  
25 Blockbuster;" I don't think that happens anymore,

1 "require a photo ID, that it was unreasonable to  
2 believe many people lacked it."

3 Whether or not many people lacked a  
4 photo ID, isn't it a fact that for most people an  
5 ID is necessary for those type of events, if they  
6 want to participate in those type of events?

7 MS. WESTFALL: Objection. Calls for  
8 speculation. Assumes facts. Foundation.

9 THE WITNESS: I think it's true that  
10 -- that it's true that a lot of people have it.  
11 There's a question of what you mean by "many  
12 people lack it." It might be a relatively small  
13 percentage of the total adult population and yet  
14 be a significant number of people who don't.

15 BY MR. KEISTER:

16 Q Before SB-14 became law and before  
17 2005 when the photo ID laws began to be debated,  
18 people did have the opportunity to utilize photo  
19 ID at the polling place, if they so desired,  
20 correct?

21 A I believe that's true, yes.

22 Q And if you forgot your registration  
23 certificate, voter registration certificate, or  
24 if it's many people you lost your voter  
25 registration certificate, all you had to do was

1 take your driver's license out and you could use  
2 that at the polling place?

3 A A driver's license or a number of non-  
4 photo ID documents as well, yes.

5 Q And have you done any studies or in  
6 your review of the other experts seen any  
7 analysis as to how many people prior to 2005 took  
8 advantage of the opportunity to use their  
9 driver's license or some other photo ID at the  
10 polling place as opposed to carrying around their  
11 voter registration card?

12 A No, sir.

13 Q Okay. On page 21 of your report under  
14 paragraph 30 --

15 A Yes.

16 Q -- first full sentence you state,  
17 "During a meeting of the Senate Committee of the  
18 Whole Adam Skaggs of the Brennan Center presented  
19 data collected by the center showing that  
20 nationally 8 percent of whites and 25 percent of  
21 blacks lack photo ID." Did I read that  
22 correctly?

23 A Yes.

24 Q Okay. And that certainly would not  
25 comport with Professor Ansolabehere's report that

1 we've been talking about today, correct?

2 A That's correct.

3 Q Okay. Do you have any reason to  
4 believe that -- I guess this was between 2011 and  
5 today -- that there's been a drastic increase in  
6 the number of African-Americans in Texas that  
7 have obtained a photo ID?

8 A I wouldn't have any way of knowing  
9 that.

10 Q Okay. So either Mr. Skaggs'  
11 percentages was wrong or there's been a dramatic  
12 increase in the number of African-Americans  
13 obtaining photo ID, correct?

14 MS. WESTFALL: Objection. Assumes  
15 facts. Lack of foundation. Form.

16 THE WITNESS: I'm -- I'm sorry, I'm  
17 going to have to ask you to repeat that one  
18 again. I'm -- I'm just --

19 BY MR. KEISTER:

20 Q I know, it's getting late. So Mr.  
21 Skaggs said that -- and he did say  
22 nationally --

23 A Nationally.

24 Q -- that 25 percent of blacks lacked  
25 the photo IDs. And we know from our

1    **conversations today that the numbers Professor**  
2    **Ansolabehere gave, at least in Texas, were**  
3    **significantly lower than that, correct?**

4           A       Yes.

5           Q       All right.

6           A       That's right.

7           Q       And my question is is there any way to  
8    **determine if Mr. Skaggs was incorrect in his**  
9    **percentage or has there been a dramatic increase**  
10   **in the number of African-Americans that have**  
11   **obtained a photo ID after 2011?**

12          A       I don't think there's any way to  
13   determine that.

14          Q       But one or the other would have to be  
15   **correct, right?**

16          A       Yes.

17          Q       Okay.

18          A       Well, but one of them is -- one of  
19   them is national and we're talking the other one  
20   statewide, right? Were you --

21          Q       It does say national.

22          A       Yes, but you -- you wouldn't expect  
23   the same percentage statewide as you would  
24   nationally. I -- I -- what am I missing here?

25          Q       Well, are there other states you're

1 aware of that have a population of 25 percent

2 African-American that do not have a photo ID?

3 A Don't have any clue.

4 Q Okay. Whereas Texas, according to  
5 Professor Ansolabehere only had I think between 9  
6 and 11 percent in his report, if I remember  
7 correctly, correct?

8 A I -- I don't remember that figure.

9 Q Okay. You would agree that in 2005,  
10 2007 and 2009 the opponents to the photo  
11 identification laws successfully utilized  
12 maneuvers based upon Senate and House rules in  
13 order to defeat those particular pieces of  
14 legislation, correct?

15 MS. WESTFALL: Objection. Compound.

16 THE WITNESS: It -- it would be  
17 helpful to go one step at a time, but --

18 BY MR. KEISTER:

19 Q I was trying to avoid that.

20 A There are certainly some cases.

21 Q Okay. Well, we just do it quickly.

22 In 2005, how did the Democrats defeat the photo  
23 voter ID in 2005?

24 MS. WESTFALL: Objection. Misstates  
25 the report.

1 THE WITNESS: The Senate majority  
2 leader, Senator Van de Putte, successfully  
3 challenged the Senate's right to debate the bill  
4 to invoke the state constitution. And then the  
5 supporters tried one more option. They sent it  
6 to the House Senate Conference Committee and the  
7 session was almost over and there were several  
8 important bills still in the process being  
9 finalized. And so, the session ended before  
10 further action on voter ID could be taken given  
11 the governing rules.

12 BY MR. KEISTER:

13 Q Okay. So essentially Senator Van de  
14 Putte successfully utilized the rules to prevent  
15 a vote on photo voter ID in 2005?

16 A Yes.

17 Q Okay. And we could go through 2007  
18 and 2009, but in each of those the end result was  
19 the Democrats, either in the House or the Senate,  
20 successfully utilized rules, legislative rules to  
21 prevent final votes on the legislation, correct?

22 A That's correct, sir.

23 Q And would you agree that in each one  
24 of those sessions, 2005, 2007 and 2009, that a  
25 majority of the members in both houses of the

1 legislature were in support of those photo voter

2 ID models?

3 MS. WESTFALL: Objection. Misstates

4 the legislation.

5 THE WITNESS: Well, in each one of

6 those years the Democrats were successful in

7 keeping photo ID law from coming into effect.

8 BY MR. KEISTER:

9 Q By preventing a final vote from one  
10 house or the other?

11 A Yes, correct.

12 Q And you would agree that if the  
13 Democrats had not used those rules to prevent  
14 that final vote in either the House or the Senate  
15 that in fact any one of those photo ID laws would  
16 have passed, correct?

17 A I think --

18 MS. WESTFALL: Objection. Calls for  
19 speculation.

20 THE WITNESS: I think that's probably  
21 right.

22 BY MR. KEISTER:

23 Q And I'm not casting stones. It just  
24 is what it is.

25 Now given the fact that that's what



1 occurred in 2005, 2007 and 2009, is there any  
2 reason you can see of as to why the Republican  
3 members of the legislature in 2011 would have  
4 expected the Democrats to be any more cooperative  
5 in passing a photo voter ID law in 2011 than they  
6 had been in the previous sessions?

7 MS. WESTFALL: Objection. Calls for  
8 speculation.

9 THE WITNESS: I'm just, I'm not sure  
10 on that one. I would have to think about that a  
11 little while. I'm just -- more time than we've  
12 got here.

13 BY MR. KEISTER:

14 Q Have you seen any evidence or come  
15 across anything that indicated to you -- and I  
16 don't think I've seen anything in the report, but  
17 anything that indicated to you that, yes, in fact  
18 in 2011 there were more Democrats who were  
19 willing to go along with a photo voter ID law  
20 than had been in the previous three sessions?

21 A No. No.

22 Q Okay. Texas became a solidly  
23 Republican state with the House becoming  
24 Republican in 2003?

25 A Somewhere in there.

1 Q Okay. Now and before that I believe  
2 that Republicans had taken the Senate in 1986.

3 A I'll take your word for it.

4 Q Okay. And then from that period  
5 forward all the major state offices were held by  
6 Republicans, correct, from 1996 up until today,  
7 with the exception maybe of Bob Bullock? I'll  
8 take that back.

9 A I think I would want to look at that.

10 Q Yes, because Bob Bullock was actually  
11 was the lieutenant governor while George Bush was  
12 governor.

13 A I think that's --

14 Q Yes. But from 2000 up until today  
15 basically for the most part it's going to -- the  
16 Republicans, correct?

17 A That would be correct.

18 Q Now with respect to that period of  
19 time, from 2000 up until today, how many laws are  
20 you aware of that the Texas Legislature has  
21 passed, other than the case that we're here on  
22 today, in which the United States Supreme Court,  
23 or any other court, has ruled them to be  
24 unconstitutional based upon racial  
25 discrimination?

1 A I don't know the answer to that.

2 Q Okay. Did you know of any?

3 A Pardon?

4 Q Do you know if there's any --

5 (Simultaneous speaking)

6 MS. WESTFALL: Objection. Calls for  
7 a legal conclusion.

8 THE WITNESS: No.

9 BY MR. KEISTER:

10 Q Okay. Well, now you did have a  
11 section in your report about the Voting Rights  
12 Act.

13 A Well, now repeat -- repeat the  
14 question once more.

15 Q Okay. All right. From the year 2000  
16 up until today do you know of any statutes passed  
17 by the Texas Legislature dealing with the  
18 elections and voting in which a court of ultimate  
19 decision has found to be in violation of the  
20 Voting Rights Act?

21 MS. WESTFALL: Objection. Calls for  
22 a legal conclusion. Outside of Dr. Davidson's  
23 expertise.

24 THE WITNESS: I believe there have  
25 been, but don't quote me on this. No, that was

1 my answer. I don't believe so, but I'm not sure.

2 BY MR. KEISTER:

3 Q Okay. All right. And in your  
4 research for the preparation of your paper you  
5 didn't come across any cases where a Texas  
6 statute has been ruled -- since the year 2000 has  
7 been ruled to be in violation of the Voting  
8 Rights Act?

9 A Oh, no, that's not so. I --

10 Q Okay.

11 A There -- I'm pretty sure there have  
12 been

13 Q Okay.

14 A -- but I can't name them.

15 Q Did you look for them?

16 A Yes, I'm -- in which the State of  
17 Texas --

18 Q The State of Texas. Not local  
19 subdivisions, but the State of Texas.

20 A For example, the legislature in a  
21 redistricting case or something or --

22 Q A redistricting? The case we're here  
23 on today, although the court of ultimate  
24 jurisdiction tossed the lower court opinion?

25 A The what?

1           Q       That's the type of law I'm talking  
2 about, laws where the Texas Legislature actually  
3 enacted a law like the Voting Act of the photo ID  
4 law.

5           A       Yes.

6           Q       Are you aware of any laws like that,  
7 or like the poll tax in the history or the white  
8 primaries? Are you aware of any law like that  
9 that has been in Texas since the year 2000 and  
10 ruled to be either unconstitutional based upon  
11 the 14th or 15th Amendments, or a violation of  
12 the Voting Rights Act?

13          A       I'm pretty there's been some in which  
14 the State of Texas has violated the Voting Rights  
15 Act. I can't tell you which ones.

16          Q       Wouldn't you have put those in your  
17 paper if you had come across those in your  
18 research?

19               MS. WESTFALL: Objection. Is there a  
20 paragraph you want to direct Dr. Davidson to?

21               MR. KEISTER: I don't think it's in  
22 here. That's why I'm asking.

23               THE WITNESS: I'm not sure.

24               MS. WESTFALL: Would you like Dr.  
25 Davidson to review the report to see whether he

1 included it? It's a lengthy report.

2 MR. KEISTER: If he needs to, but I'll  
3 leave that up to him.

4 THE WITNESS: The question one more  
5 time.

6 BY MR. KEISTER:

7 Q Yes, since the year 2000 -- okay, now  
8 we -- let me just preface it. We know that in  
9 the past the legislature has enacted laws that  
10 were later found to be discriminatory such as the  
11 white primary, such as the poll tax, and those  
12 laws were struck out. Now, and we know that's  
13 occurred all the way from Texas history all the  
14 way up until the Republicans came into power in  
15 the 2000s. My question is, since the Republicans  
16 came to power in the 2000s have you found any  
17 cases in which the court has stricken --

18 A The supreme court.

19 Q Ultimately it would be the supreme  
20 court, but has stricken a Texas state law that  
21 dealt with elections or voting based upon that  
22 statute by --

23 A The Voting Rights Act.

24 Q -- violated the Voting Right Act, or  
25 being unconstitutional under the 14th and 15th

1 **Amendments.**

2 A It's unconstitutional that you're  
3 asking about?

4 Q **Either in violation of the Voter**  
5 **Rights Act or unconstitutional in violation of**  
6 **the 14th and 15th Amendments. And I focused it**  
7 **on after the year 2000, 2000 and up.**

8 A Okay. In addition, Texas led all nine  
9 states governed by Section 5 in the number of  
10 successful Section 2 cases, reported and  
11 unreported, filed between 1982 and 2005. There  
12 were a total of 653 cases, and 206 were in Texas.  
13 Most of these were cases settled through a court  
14 ordered consent decree without trial.

15 In recent decades courts did not often  
16 make findings that a law was adopted with a  
17 racially discriminatory intent because the  
18 Section 5 effects and Section 2 results test have  
19 been available. Even so, as recently as August  
20 2012 a federal court ruled that Texas had failed  
21 to meet its burden under Section 5 of providing  
22 that its state and senate congressional  
23 redistricting plans were not intentionally  
24 racially discriminatory. The same legislature  
25 enacted intentionally discriminatory

1 redistricting plans in 2011. According to this  
2 court finding, it provides a strong indicator  
3 that the same decision makers were acting with a  
4 racial purpose in adopting SB-14.

5 That's essentially what I have to say  
6 about it.

7 **Q Okay. So did -- where you pointed out**  
8 **to be redistricting cases?**

9 **A** No, I don't see the redistricting  
10 cases.

11 **Q Okay. And I'm sorry, I wasn't asking**  
12 **you to read your report into the record.**

13 (Laughter)

14 **BY MR. KEISTER:**

15 **Q I should have stopped you.**

16 **A** Okay.

17 **Q Yes, the answer is you're not aware of**  
18 **any?**

19 **A** Not aware.

20 **Q Okay. All right. Thank you. You are**  
21 **aware that there are many minorities in elected**  
22 **positions in the State of Texas, correct?**

23 **A** That's correct.

24 **Q Okay. You are aware that one of the**  
25 **highest federal positions, elected positions in**



1 the State of Texas is a seat that's held by a  
2 minority, correct?

3 A That's correct.

4 Q And that would be Senator Ted Cruz,  
5 right?

6 A That's correct.

7 Q And who supported Senator Ted Cruz in  
8 his election for Senate?

9 A Well, disproportionate under  
10 Republicans.

11 (Laughter)

12 BY MR. KEISTER:

13 Q Disproportionate? A considerable  
14 number of Republicans, correct?

15 A Quite a few.

16 Q I think he was touted as the Tea Party  
17 candidate, correct?

18 A Yes.

19 Q Okay. And he is as we sit here today  
20 still, and probably more, the most popular  
21 elected political official in the State of Texas  
22 today, isn't he?

23 A I don't know that to be the case, but  
24 he certainly has a lot of grassroots support.

25 Q Okay. Amongst some Republicans and

1 certainly amongst the Tea Party Republicans he's  
2 the most popular elected political official in  
3 the State of Texas today, isn't he?

4 A I think that's correct.

5 Q All right. Doctor, you've been  
6 extremely patient. I appreciate that. And I'm  
7 going to pass the witness.

8 MS. WESTFALL: I think I will take a  
9 little bit of a break.

10 (Whereupon, the above-entitled matter  
11 went off the record at 3:08 p.m. and resumed at  
12 3:18 p.m.)

13 CROSS-EXAMINATION

14 BY MR. HEBERT:

15 Q Dr. Davidson, in response to Mr.  
16 Keister's questions about ACORN, he asked you if  
17 you were aware that ACORN had been convicted of  
18 voter fraud, but in fact the organization ACORN  
19 was never convicted of anything, was it?

20 A That's correct.

21 Q All right. And in fact, the  
22 controversy about ACORN related to voter  
23 registration applications and the press as to  
24 voter registration and didn't involve really  
25 voter impersonation, did it?

1 A No, absolutely not.

2 Q Okay. That's all I have. I just  
3 wanted to clarify.

4 CROSS-EXAMINATION

5 BY MS. WESTFALL:

6 Q Great. I just have a couple follow-up  
7 questions. I'd like, Dr. Davidson, for you to  
8 turn your attention back to your report at  
9 paragraph 30.

10 A You said page 30?

11 Q Paragraph 30 at page 21.

12 A Okay. Hold on.

13 Q Sorry. And turn your attention to the  
14 Brennan Center study that you testified about  
15 earlier. Do you see that you indicated in  
16 paragraph 30 that the study related to overall  
17 population and not registered voters? Is that  
18 right?

19 A I'm going to change my glasses here.  
20 Just one second. Yes.

21 Q Are you aware of whether Dr.  
22 Ansolabehere in this case studied the population  
23 of registered voters in Texas as opposed to  
24 population as a whole?

25 A I think he focused on registered

1 voters.

2 Q Do you know whether Dr. Ansolabehere  
3 looked at all forms of acceptable ID under Senate  
4 Bill-14, federal and state?

5 A I believe he did, but I'm not sure.

6 Q Thank you. I have no further  
7 questions.

8 REDIRECT EXAMINATION

9 BY MR. KEISTER:

10 Q Okay. Just a couple. With respect to  
11 page 21 and the Brennan Center study, is it your  
12 belief that Mr. Skaggs was testifying or was  
13 presenting data to the committee that 25 percent  
14 of the total blacks did not have photo IDs? Did  
15 he represent to the Senate Committee that was  
16 voting age population, or did he represent that  
17 that was people including non-citizens and  
18 underage, or people too young to vote?

19 A I don't know.

20 Q Okay. That's an important  
21 distinction, isn't it?

22 A That would have some importance.

23 Q Okay. Now Mr. Hebert asked you about  
24 whether or not the ACORN organization had been  
25 convicted, is that correct?

1 A That's correct.

2 Q And is that your belief that the ACORN  
3 organization has not been convicted of any crimes  
4 related to voter registration?

5 A Yes.

6 Q Okay. Do you have any understanding  
7 that certain members of ACORN were convicted for  
8 violation of voter registration laws?

9 A I can't remember that.

10 Q Okay. If you thought about it real  
11 hard, could you remember that?

12 MS. WESTFALL: Objection. Asked and  
13 answered and relevance.

14 THE WITNESS: No.

15 BY MR. KEISTER:

16 Q Okay. You understand that following  
17 those trials of ACORN and/or ACORN people that  
18 the ACORN organization was severely limited in  
19 its activities after that time period?

20 A Yes.

21 Q Okay. And do you think by the time we  
22 go to trial in this case you might have me an  
23 answer as to who got convicted, ACORN or the  
24 individuals?

25 A Yes.

1           **Q       Okay. Thank you. I have no more**  
2 **questions, unless somebody else does.**

3           MS. WESTFALL: I have no other  
4 questions.

5           MR. HEBERT: No.

6           MS. WESTFALL: We're done.

7           (Whereupon, the taking of deposition  
8 in the above-entitled matter was concluded at  
9 3:22 p.m., signature having not been waived.)

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1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript

3 Deposition of: Franklin Chandler Davidson

4 In the matter of: Veasy, et al. V Perry, et al.

5 Before: US District Court

6 Date: 08-19-14

7 Place: Washington, DC

8 were duly recorded and accurately transcribed

9 under my direction; further, that said transcript

10 is a true and accurate record of the proceedings;

11 and that I am neither counsel for, related to,

12 nor employed by any of the parties to this action


13 in which this deposition was taken; and further

14 that I am not a relative nor an employee of any

15 of the parties nor counsel employed by the

16 parties, and I am not financially or otherwise

17 interested in the outcome of the action.

18   
19 -----  
20 -----

21 Dan Michon, Court Reporter

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